



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: June 23, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006618

[REDACTED]

Dear [REDACTED],

On June 20, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's November 22, 2015 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and NY State of Health Account ID at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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## Decision

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006618



## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health properly determine that you were eligible to enroll in the Essential Plan effective January 1, 2016?

Did NY State of Health properly determine that you were not eligible for Medicaid, as of November 15, 2015?

## Procedural History

On November 15, 2015, NY State of Health (NYSOH) received your updated application for financial assistance.

On November 22, 2015, NYSOH issued an eligibility determination based on the November 15, 2015 application, stating that you are eligible to enroll in the Essential Plan, with a monthly premium of \$20.00, effective January 1, 2016.

On November 25, 2015, NYSOH issued an enrollment confirmation notice, confirming your enrollment in an Essential Plan, effective January 1, 2016.

On January 29, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the November 22, 2015 eligibility determination insofar as you were not eligible for Medicaid.

On June 20, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) You testified that you expect to file your 2016 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 2) The application that was submitted on November 15, 2015, which requested financial assistance, listed annual household income of \$18,000.00, consisting of earned income. You testified that this amount was correct.
- 3) You testified that your monthly income for June 2016 is \$1600.00, and that you did not work any overtime this month.
- 4) You testified that you expect your annual income to be more than \$18,000.00 because you sometimes get overtime, and that, because of this, you won't know your actual annual income until the end of the year.
- 5) Your application states that you will not be taking any deductions on your 2016 tax return.
- 6) Your application states that you live in Suffolk County.
- 7) You testified that you are finding it difficult to pay the \$46.45 monthly premium for your insurance coverage because of your other living expenses.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their

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immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2015 FPL, which is \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

### Medicaid

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2015 FPL, which is \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237). For the year 2016, the FPL is \$11,880.00 for a one-person household (81 Fed. Reg. 4036).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

### Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term "modified adjusted gross income" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3)

Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, and deductions attributable to royalties (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that you were eligible for the Essential Plan, effective January 1, 2016.

The application that was submitted on November 15, 2015 listed an annual household income of \$18,000.00, and the eligibility determination relied upon that information. You testified that this amount was correct.

You are in a one-person household. You expect to file your 2016 income taxes as single and will claim no dependents on that tax return.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,770.00 for a one-person household. Since an annual household income of \$18,000.00 is 152.93% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan.

The second issue is whether NYSOH properly determined that you were not eligible for Medicaid.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,770.00 for a one-person household. Since \$18,000.00 is 152.93% of the 2015 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

You testified that you are looking for Medicaid coverage to start prospectively. You also testified that your monthly income for June 2016 was \$1600.00

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the 2016 FPL, which is \$990.00 per month. Since, according to your testimony, you earned \$1600.00 in June, which is 161.62% of the applicable FPL, you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

You testified that you have monthly living expenses that make it difficult to afford the monthly premium for the Essential Plan. However, NYSOH uses your “modified adjusted gross income” to determine your eligibility. This figure is based on federal tax law, and since living expenses are not deductible when determining your adjusted gross income for tax purposes, they are also not deductible when determining your modified adjusted gross income for purposes of your eligibility for financial assistance through NYSOH.

Therefore, since the November 22, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for the Essential Plan, it was correct and is AFFIRMED.

## **Decision**

The November 22, 2015 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** June 23, 2016

## **How this Decision Affects Your Eligibility**

You remain eligible for the Essential Plan.

You are not eligible for Medicaid on the basis of expected annual income or on a monthly income basis.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This

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must be done within four months after the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

### **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The November 22, 2015 eligibility determination notice is AFFIRMED.

You remain eligible for the Essential Plan.

You are not eligible for Medicaid on the basis of expected annual income or on a monthly income basis.

### **Legal Authority**

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**A Copy of this Decision Has Been Provided To:**

