



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

Notice of Decision

Decision Date: July 1, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006678

[REDACTED]

Dear [REDACTED]

On June 8, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 16, 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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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 and your spouse were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective January 1, 2016?

Did NY State of Health properly determine that you and your spouse were not eligible for Medicaid, as of December 16, 2015?

Procedural History

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

On December 16, 2015, NYSOH issued an eligibility determination based on the December 15, 2015 application, stating that you and your spouse are eligible to enroll in the Essential Plan, effective January 1, 2016.

On February 1, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you and your spouse were not eligible for Medicaid.

On June 8, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open for fifteen days to give you time to submit documentation of your spouse's

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income for the month of January 2016. On June 14, 2016, you faxed a five page document to the NYSOH Appeals Unit. The record is now closed.

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 married filing jointly. You will claim two dependents on that tax return.
- 2) You are seeking insurance for yourself and your spouse.
- 3) The December 16, 2015 eligibility determination notice stated that it was based on an annual household income of \$40,000.00. You testified that you believed this amount was correct.
- 4) You testified that you do not work, and that your husband is the only one in the household with income.
- 5) You testified that your husband works forty hours a week, and sometimes works overtime. You testified that you believe he earns \$14.00 or \$15.00 an hour, and that he is paid weekly.
- 6) You testified that you were not sure of your husband's income for the month of January 2016. The documentation you submitted (see below) shows a gross income of \$2952.00 for your spouse in the month of January 2016.
- 7) The paystubs you submitted for your spouse reflect that he earns \$16.00 an hour, and \$24.00 an hour for overtime.
- 8) The paystubs you submitted also reflect that your spouse worked 17.5 hours of overtime in January 2016.
- 9) Your application states that you will not be taking any deductions on your 2016 tax return.
- 10) Your application states that you live in Queens County.
- 11) You testified that you are seeking Medicaid for yourself and your spouse because you cannot afford the expenses associated with the Essential Plan coverage.
- 12) After the hearing, you faxed a five-page document to the NYSOH Appeals Unit consisting of the following:

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- a. One-page cover sheet;
- b. A pay stub for your spouse for January 7, 2016 showing gross pay of \$612.00;
- c. A pay stub for your spouse for January 14, 2016 showing gross pay of \$772.00;
- d. A pay stub for your spouse for January 21, 2016 showing gross pay of \$778.00;
- e. A pay stub for your spouse for January 28, 2016 showing gross pay of \$790.00.

These documents are entered collectively into the record as “Appellant’s Exhibit One.”

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 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 \$24,450.00 for a four-person household (80 Fed. Reg. 3236, 3237).

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution (New York’s Basic Health Plan Blueprint, p. 21, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

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 \$24,250.00 for a four-person household (80 Fed. Reg. 3236, 3237).

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).

Legal Analysis

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

The application that was submitted on December 15, 2015 listed an annual household income of \$40,000.00, and the eligibility determination relied upon that information.

You are in a four-person household. You expect to file your 2016 income taxes as married filing jointly and will claim two 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 \$24,450.00 for a four-person household. Since an annual household income of \$40,000.00 is 163.60% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan.

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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. Since your household income is 163.60% of the FPL, you and your spouse each have a \$20.00 monthly premium contribution.

The second issue is whether NYSOH properly determined that you and your spouse 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 \$24,450.00 for a four-person household. Since \$40,000.00 is 163.60% of the 2015 FPL, NYSOH properly found you and your spouse 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 submitted four paystubs for your spouse that show he earned a gross income of \$2952.00 in January 2016 (Appellant's Exhibit One). There was no other income for your household for that month.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$2,021.00 per month. Since the documentation you provided shows that you earned \$2952.00 in January 2016, which is 146.07% of the applicable FPL, you and your spouse do not qualify for Medicaid on the basis of monthly income as of January 1, 2016.

Since the December 16, 2015 eligibility determination properly stated that, based on the information you provided, you and your spouse were eligible for the Essential Plan, it was correct and is AFFIRMED.

Decision

The December 16, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: July 1, 2016

How this Decision Affects Your Eligibility

You and your spouse remain eligible for the Essential Plan.

You and your spouse were not eligible for Medicaid on either an expected annual income or monthly income basis as of January 1, 2016.

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 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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- By fax: 1-855-900-5557

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Summary

The December 16, 2015 eligibility determination notice is AFFIRMED.

You and your spouse remain eligible for the Essential Plan.

You and your spouse were not eligible for Medicaid on either an expected annual income or monthly income basis as of January 1, 2016.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

