



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: AP000000006888

[REDACTED]

Dear [REDACTED],

On June 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 20, 2015 eligibility determination notice.

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 the 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

Decision Date: June 23, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006888

[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that you were not eligible for insurance coverage for September 2015 through November 2015?

## Procedural History

On December 8, 2015, your NY State of Health (NYSOH) account was created and an application for financial assistance was submitted.

On December 9, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan for a limited time, effective January 1, 2016. The notice requested that you provide additional information confirming your income before March 7, 2016.

Also on December 9, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled in an Essential Plan and that plan would start January 1, 2016.

On December 20, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan, effective January 1, 2016.

Also on December 20, 2015, NYSOH issued an eligibility determination notice stating that your request for help with paying medical bills for the three month period prior to December 8, 2015 was denied because the program you were eligible for cannot pay for any care you received in the past.

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On February 5, 2016, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination notice insofar as it denied retroactive Medicaid for the months of September, October, and November 2015.

On June 21, 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 support the following findings of fact:

- 1) You testified that you expect to file your federal income tax return as single, and claim no dependents on that tax return.
- 2) You testified, and the record indicates, that you have never been found eligible for Medicaid.
- 3) The record indicates that you did not apply for health insurance through NYSOH until December 8, 2015.
- 4) You testified that you have outstanding medical bills that you incurred from visiting the emergency room in November 2015.
- 5) You testified, and provided documentation, that you were unemployed and received \$0.00 in income during the months of September, October, and November 2015.
- 6) You testified, and provided documentation, that you were employed as of December 1, 2015 and expect to make \$17,170.00 annually from this employment.

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

## **Applicable Law and Regulations**

### Medicaid for Adults between the Ages of 19 and 65

Medicaid through NYSOH can be provided 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

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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 federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 435.603(d)(4); N.Y. Soc. Serv. Law § 366(1)(b)).

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied. (42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

### Essential Plan

As of January 1, 2016 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, New York's Basic Health Plan Blueprint, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

### **Legal Analysis**

The issue under review is whether NYSOH properly determined that you were not eligible for insurance coverage for September 2015 through November 2015.

On December 8, 2015, your NY State of Health (NYSOH) account was created and an application for financial assistance was submitted. As a result, you were found eligible for coverage through the Essential Plan as of January 1, 2016. You testified that you have medical bills from an emergency room visit in November 2015 and need coverage for that month. Since the Essential Plan was not available prior to January 1, 2016 to New York residents with income between 138% and 200% of the FPL, NYSOH cannot backdate your Essential Plan coverage prior to January 1, 2016.

You testified that you are seeking retroactive Medicaid coverage through this appeal for the three months prior to December 2015.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's application finding them eligible for Medicaid, if the individual received medical services that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

You testified, and the record indicates, that you have never been found eligible for Medicaid.

Since you were never officially found eligible for Medicaid, you cannot be eligible for retroactive Medicaid coverage. Therefore, the December 20, 2015 eligibility determination notice stating that your request for help with paying medical bills for September 1, 2015 through November 30, 2015 was denied because the program you were eligible for cannot pay for any care received in the past is **AFFIRMED**

## **Decision**

The December 20, 2015 eligibility determination is **AFFIRMED**.

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

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

You remain eligible for the Essential Plan effective January 1, 2016.

You are not eligible for Medicaid coverage in September, October, and November 2015.

## **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 of the Decision Date, which appears on the first page of this Decision.

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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 December 20, 2015 eligibility determination is AFFIRMED.

You remain eligible for the Essential Plan effective January 1, 2016.

You are not eligible for Medicaid coverage in September, October, and November 2015.

### **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

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

