



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

Notice of Decision

Decision Date: August 18, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007340

[REDACTED]

Dear [REDACTED]

On July 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 20, 2016 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 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 issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that you and your two sons were eligible for Medicaid, effective January 1, 2016?

Procedural History

On July 20, 2015, NYSOH received your initial application for health insurance.

On July 21, 2015, NYSOH issued an eligibility determination notice based on the information contained in the July 20, 2015 application. The notice stated that you and your oldest son were conditionally eligible to receive up to \$377.00 per month in advance payments of the premium tax credit (APTC) and, if you selected a silver-level plan, eligible for cost-sharing reductions. The notice also found your youngest son conditionally eligible to enroll in Child Health Plus (CHP) for a cost of \$9.00 per month. Your family member's eligibility for their respective health insurance programs was conditional pending receipt of income documentation to confirm the information contained in your application was accurate. On the first, second and third pages of the notice, you were given until August 29, 2015 to submit the documentation; however, on the fourth page you were told you had until October 18, 2015. This eligibility determination was effective September 1, 2015. Your family enrolled in plans on that same day.

No documents were submitted by either deadline.

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On October 25, 2015, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you and your two sons would qualify for financial help paying for health coverage, and that you needed to update your account by December 15, 2015 or your family might lose the financial assistance it was currently receiving.

On November 5, 2015 and November 19, 2015, NYSOH received revised applications. In response to these applications, on November 6, 2015 and November 20, 2015, NYSOH issued a notice stating that your family may be eligible for health insurance, but more information was needed to make a determination. Each notice requested that you provide additional income documentation to confirm the information in your application was accurate so a determination could be made.

On November 30, 2015, NYSOH received a letter indicating your source of income and payment of alimony during 2016, as well as a copy of your Schedule K-1 filed in connection with your 2014 tax return.

On December 4, 2015, NYSOH issued a notice confirming receipt of documentation to resolve the inconsistency in your account; however, the documentation was found to be insufficient. It requested that you provide additional income documentation to prove your income. It did not specify the type of income documentation required, nor did it confirm the date by which to provide such documentation.

On January 8, 2016, NYSOH received a signed and dated copy of your 2014 tax return, together with the related schedules.

On January 19, 2016, NYSOH redetermined your eligibility based on the information contained in your account as of that date.

On January 20, 2016, NYSOH issued an eligibility redetermination notice stating that you and your sons were each found eligible for Medicaid, effective January 1, 2016. This determination was issued because your household income of \$24,700.00 was at or below the allowable income limit.

On January 24, 2016, NYSOH issued a notice of enrollment confirming you're your family's Medicaid Managed Care (MMC) plan coverage would begin March 1, 2016.

On February 23, 2016, you spoke to NYSOH's Account Review Unit and appealed the January 20, 2016 eligibility determination insofar as you and your sons were found eligible for Medicaid.

On July 21, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open for the sole purpose of providing you an opportunity to submit as additional evidence: a copy of your 2015 tax return with the associated schedules. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

July 30, 2016, you provided a signed and date copy of your 2015 tax return with the associated schedules to the Appeals Unit through your NYSOH account.

Accordingly, the record was closed on July 30, 2016.

Findings of Fact

A review of the record support 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 your two sons as dependents on that tax return.
- 2) You testified that your divorce was finalized during February of 2016.
- 3) You are seeking insurance for you and your two sons.
- 4) The January 19, 2016 eligibility determination was based on an annual household income of \$24,700.00, consisting of (1) a single \$2,500.00 IRA distribution before taxes are withdrawn, (2) \$500.00 per month in business consulting income, (3) \$8,100.00 per month in rental income, (4) \$3,000.00 per month in alimony paid by you to your ex-spouse and (5) a \$45,000.00 loss you reported on your Schedule K-1 relating to prior business losses. You testified that these amounts was correct based on your 2015 income; however, you would not be able to claim the \$45,000.00 loss as a deduction on your 2016 tax return. You also testified that you would not be receiving the \$2,500.00 amount again from the ITA during 2016 since this was an amount received in connection with your father's estate as his passing during 2015.
- 5) You live in Nassau County, New York.
- 6) You testified that you were seeking to have your family's eligibility redetermined since you did not agree that your family should be receiving Medicaid.
- 7) On January 8, 2016, you provided to NYSOH a signed copy of your 2014 tax return reflecting an adjusted gross income (line 37) of \$76,897.00.

- 8) On July 30, 2016, you provided to NYSOH Appeals Unit a copy of your 2015 tax return reflecting an adjusted gross income (line 37) of \$61,411.00.

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

Applicable Law and Regulations

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 \$20,090.00 for a three-person household (80 Fed. Reg. 3236, 3237).

Legal Analysis

The sole issue under review is whether NYSOH properly determined that you and your two sons were eligible for Medicaid, effective January 1, 2016.

Your household's eligibility that was determined on January 19, 2016 listed an annual household income of \$24,700.00, which was comprised of (1) a single \$2,500.00 IRA distribution before taxes are withdrawn, (2) \$500.00 per month in business consulting income, (3) \$8,100.00 per month in rental income, (4) \$3,000.00 per month in alimony paid by you to your ex-spouse and (5) a \$45,000.00 loss you reported on your Schedule K-1 relating to prior business losses.

This determination was based, in part, on a revised application you submitted on November 19, 2015. In that application, you attested to expecting to deduct the \$45,000.00 loss on your tax return. You testified, however, that you have been instructed by your accountants that you would only be able to take that deduction relating to your business losses on your 2015 tax return, and that you could not include that loss again on your 2016 tax return.

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The record reflects that shortly after you provided a copy of your 2014 tax return to NYSOH, on January 19, 2016, NYSOH redetermined your eligibility for 2016 using the \$45,000.00 business loss as part of your overall annual household income. Therefore, since your annual household income was computed based on erroneous information, the January 20, 2016 eligibility determination is no longer supported by the record and must be RESCINDED.

You are in a three-person household. You expect to file your 2016 income taxes as single and will claim two dependents on that tax return.

The credible evidence of record now reflects that you expect to receive (1) \$97,200.00 (\$8,100.00 x 12 months) in rental income, (3) \$6,000.00 (\$500.00 x 12 months) of business consulting income during 2016. You also expect to take a deduction of \$36,000.00 (\$3,000.00 x 12 months) for your payment of alimony to your ex-spouse during 2016. Accordingly, your annual household income is more properly computed to be \$67,200.00.

Therefore, your case is RETURNED to NYSOH to redetermine your family's eligibility based on an annual household income of \$67,200.00 for a three-person household in Nassau County.

Decision

The January 20, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your family's eligibility based on an annual household income of \$67,200.00 for a three-person household in Nassau County.

Effective Date of this Decision: August 18, 2016

How this Decision Affects Your Eligibility

You will receive a new determination of your household's eligibility for health insurance and financial assistance through NYSOH.

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.

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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.

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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The January 20, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your family's eligibility based on an annual household income of \$67,200.00 for a three-person household in Nassau County.

You will receive a new determination of your household's eligibility for health insurance and financial assistance through NYSOH.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

