



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

Notice of Decision

Decision Date: September 9, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007656

[REDACTED]

Dear [REDACTED],

On August 23, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 4, 2016 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 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 were eligible to enroll in the Essential Plan, effective April 1, 2016?

Procedural History

On September 25, 2015, NY State of Health (NYSOH) received your updated application for financial assistance.

On October 23, 2015, NYSOH issued an eligibility determination notice based on the September 25, 2015 application, and on income documentation verified on October 22, 2015, that stated you were eligible for Medicaid, effective October 1, 2015.

On October 24, 2015, NYSOH issued an enrollment confirmation notice confirming your enrollment in a Medicaid Managed Care (MMC) plan, effective December 1, 2015.

On February 25, 2016, you updated your NYSOH application.

On February 26, 2016, NYSOH issued an eligibility determination notice stating that you were no longer eligible for Medicaid, but that your Medicaid coverage would continue until August 31, 2016. The notice further stated that you needed to come back between July 17, 2016 and August 16, 2016 to update the

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information in your account. Lastly, the notice stated that you needed to pick a health plan.

Also on February 26, 2016, NYSOH issued a disenrollment notice stating that your coverage in your MMC plan would end effective March 31, 2016 because you were no longer eligible to remain in your current health insurance.

On March 3, 2016, your NYSOH application was updated twice. The first revisions changed your application to one no longer requesting financial assistance; the second changed your application back to one requesting financial assistance.

In response to the second application filed on March 3, 2016, a preliminary eligibility determination was prepared stating that you were eligible to enroll in the Essential Plan, effective April 1, 2016.

Also on March 3, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were not eligible for Medicaid. You also requested Aid to Continue while your appeal was pending.

On March 4, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective April 1, 2016. The notice also stated that you no longer qualified to enroll in a qualified health plan as of March 31, 2016.

That same day, NYSOH issued a cancellation notice stating that your Medicaid Fee-For-Service coverage would be discontinued as of August 31, 2016.

On March 15, 2016, your request for Aid to Continue was granted. That day, you were placed back into your MMC plan, starting April 1, 2016.

On August 23, 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) You are seeking insurance for yourself.

- 3) The application that was submitted on March 3, 2016 which requested financial assistance, listed annual household income of \$21,320.00, consisting of income from employment. You testified that this amount was correct.
- 4) Your application states that you will not be taking any deductions on your 2016 tax return, and you testified that this is correct.
- 5) You testified that, at some point, you went online to review your application for health insurance in your NYSOH account, but that you did not make any changes.
- 6) After the hearing, the Hearing Officer requested the recordings for phone calls you had with NYSOH for the months of February and March 2016. There were five recordings, which the Hearing Officer listened to in their entirety. The following findings of fact are from these recordings.
 - a. You contacted NYSOH on February 25, 2016 to report a change of address. Your eligibility was re-run that day with updated income information that you provided to NYSOH.
 - b. You were informed on February 25, 2016 that you were no longer eligible for Medicaid, but that your Medicaid coverage would continue until August 31, 2016. You were also advised to send four paystubs to NYSOH to confirm your income.
 - c. On March 3, 2016, you spoke with NYSOH twice.
 - d. During the first call on March 3, 2016, you told the NYSOH representative that you had received two letters from NYSOH, including one which stated that your coverage in your Medicaid Managed Care plan was ending on March 31, 2016.
 - e. Also during your first call, the NYSOH representative asked you if you had accessed your account lately, and you stated that you had gone in to look at the information in your account, but had made no changes.
 - f. The NYSOH representative told you that the system was showing that you were eligible to enroll in a qualified health plan at full cost, and that she did not know why that was. You informed the representative that you would call back later.
 - g. During the second call on March 3, 2016, you spoke with a NYSOH representative who informed you that your application had been switched to an application for non-financial assistance. He stated

that this caused your eligibility to change to being eligible for a full cost qualified health plan.

- h. Also during the second call, the NYSOH representative changed your application to one for financial assistance and re-ran your eligibility. He told you that you were eligible for the Essential Plan with a \$20.00 monthly premium.
 - i. During the second call, you informed the NYSOH representative that you did not understand why you were no longer eligible for Medicaid, and that you wanted to appeal the determination.
- 7) You testified that you do not understand why you are not eligible for Medicaid, and are appealing to be found eligible retroactive to April 1, 2016.
- 8) You testified that you live in Monroe County.

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 \$11,770.00 for a one-person household (80 Federal Register 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 2016 FPL, which is \$11,880.00 for a one-person household (81 Federal Register 4036).

Generally, most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage, even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as "continuous coverage" and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (NY Social Services Law § 366(4)(c)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

Legal Analysis

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

The application that was submitted on March 3, 2016 listed an annual household income of \$21,320.00, and the eligibility determination relied upon that information.

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 \$21,320.00 is 183.69% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan, based on the income provided in the March 3, 2016 application.

However, you had previously been determined eligible for Medicaid effective October 1, 2015, and were enrolled in Medicaid and a Medicaid Managed Care plan when you updated your application on March 3, 2016.

Generally, with limited exceptions, most adults determined eligible for Medicaid remain eligible for a continuous period of 12 months, even if they lose eligibility because of changes or updates they make to their NYSOH account.

When you updated your application on March 3, 2016, your expected annual income was \$21,320.00. 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 \$11,880.00 for a one-person household. Since \$21,320.00 is 179.46% of the 2016 FPL, you were over the income limit for Medicaid as of your March 3, 2016 application.

However, you were originally found eligible for Medicaid effective October 1, 2015, and should have remained eligible for a period of 12 months, even with a change in income. It appears from the information in the record that your application was briefly and inadvertently changed to an application for non-financial assistance, which removed you from Medicaid. When your application was changed back to an application for financial assistance, you were no longer in your 12-month period of continuous coverage, so you were found eligible for the Essential Plan instead.

Since there is nothing in the record to indicate that there were any circumstances that should have removed you from your 12 months of continuous Medicaid coverage, other than this inadvertent change in the type of application, you should have remained in Medicaid for a continuous period of 12 months, ending on September 30, 2016, despite the fact that your income is now above the Medicaid threshold.

Therefore, the following changes are made to bring NYSOH's notices in line with this decision:

The February 26, 2016 notice of eligibility determination is MODIFIED to state that you are no longer eligible for Medicaid, but that your Medicaid coverage will continue through September 30, 2016;

The February 27, 2016 disenrollment notice is MODIFIED to state that your coverage in your Medicaid Managed Care plan is terminated effective September 30, 2016;

The March 4, 2016 notice of eligibility determination is MODIFIED to state that you are no longer eligible for Medicaid, but that your Medicaid coverage will continue through September 30, 2016;

The March 4, 2016 cancellation notice is MODIFIED to state that your coverage through Medicaid Fee-For-Service is terminated effective September 30, 2016.

Your case is RETURNED to NYSOH to effectuate the above changes.

Decision

The February 26, 2016 notice of eligibility determination is MODIFIED to state that you are no longer eligible for Medicaid, but that your Medicaid coverage will continue through September 30, 2016.

The February 27, 2016 disenrollment notice is MODIFIED to state that your coverage in your Medicaid Managed Care plan is terminated effective September 30, 2016.

The March 4, 2016 notice of eligibility determination is MODIFIED to state that you are no longer eligible for Medicaid, but that your Medicaid coverage will continue through September 30, 2016.

The March 4, 2016 cancellation notice is MODIFIED to state that your coverage through Medicaid Fee-For-Service is terminated effective September 30, 2016.

Your case is RETURNED to NYSOH to effectuate the above changes.

Effective Date of this Decision: September 9, 2016

How this Decision Affects Your Eligibility

You should have remained in your Medicaid and Medicaid Managed Care plan coverage through the end of September 2016 because you were eligible for 12 months of continuous Medicaid coverage.

Your case is being sent back to NYSOH to ensure that you remain enrolled in your Medicaid and Medicaid Managed Care plan coverage through the end of September 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 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

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Summary

The February 26, 2016 notice of eligibility determination is MODIFIED to state that you are no longer eligible for Medicaid, but that your Medicaid coverage will continue through September 30, 2016.

The February 27, 2016 disenrollment notice is MODIFIED to state that your coverage in your Medicaid Managed Care plan is terminated effective September 30, 2016.

The March 4, 2016 notice of eligibility determination is MODIFIED to state that you are no longer eligible for Medicaid, but that your Medicaid coverage will continue through September 30, 2016.

The March 4, 2016 cancellation notice is MODIFIED to state that your coverage through Medicaid Fee-For-Service is terminated effective September 30, 2016.

Your case is RETURNED to NYSOH to effectuate the above changes.

You should have remained in your Medicaid and Medicaid Managed Care plan coverage through the end of September 2016 because you were eligible for 12 months of continuous Medicaid coverage, even though your income is now above the Medicaid income limit.

Your case is being sent back to NYSOH to ensure that you remain enrolled in your Medicaid and Medicaid Managed Care plan coverage through the end of September 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:

