



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

Notice of Decision

Decision Date: August 25, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007773

[REDACTED]

Dear [REDACTED],

On August 22, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's March 9, 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 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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NY State of Health Account ID: [REDACTED]
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Issue

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

Did NYSOH properly determine that you were not eligible for Medicaid through NYSOH?

Procedural History

On March 8, 2016, NY State of Health (NYSOH) received your completed application for health insurance for yourself and your spouse. That day, a preliminary eligibility determination was prepared with regard to the application, stating that you and your spouse were not eligible to purchase health care coverage through NYSOH's Marketplace.

Also on March 8, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to you and your spouse being ineligible for Medicaid through NYSOH.

On March 9, 2016, NYSOH issued an eligibility determination notice based on the information contained in the March 8, 2016 application, stating that you and your spouse were not eligible for Medicaid, Child Health Plus, Essential Plan or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. It also stated that you and your spouse were not eligible to enroll in a qualified health plan at full cost. This was because, based on the information from federal and state data sources, you and your spouse were already enrolled in or eligible for a public insurance program such as Medicare.

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On August 22, 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 married filing jointly. You will claim no dependents on that tax return.
- 2) You are seeking insurance for yourself and your spouse.
- 3) The application that was submitted on March 8, 2016 listed annual household income of \$24,660.00, consisting of \$10,368.00 you receive from Social Security Disability and \$14,292.00 your spouse receives from Social Security retirement. You testified that these amounts were correct.
- 4) Your application states that you will not be taking any deductions on your 2016 tax return.
- 5) Your application states and you confirmed that you live in Queens County, New York.
- 6) Your application states that your date of birth is [REDACTED] and your spouse's is [REDACTED]. You confirmed that you are both over age 65.
- 7) You testified and the record shows that both you and your spouse are enrolled in public coverage with Medicare.
- 8) You testified that you are appealing because you are handicapped and want Medicaid for yourself and your spouse.

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

Applicable Law and Regulations

Minimum Essential Coverage

Minimum essential coverage includes most government-sponsored insurance plans such as Medicaid, Medicare, CHIP, Tricare, Veterans' Health Coverage,

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and eligible employer-sponsored insurance (26 USC §§ 36B(c)(2)(B) and 5000A(f)).

According to 26 USC § 5000A, which is part of the Internal Revenue Code, various government-sponsored plans provide minimum essential coverage, including the Medicare program under part A of title XVIII of the Social Security Act (26 USC § 5000A(f)(1)(A)(i), 42 USCS §§ 1395c et seq.).

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)).

If you fall into one of these categories, NYSOH must determine your eligibility for Medicaid using modified adjusted gross income (MAGI) rules (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

If you do not fall into one of these categories you may be eligible for non-MAGI-based Medicaid coverage through your Local Department of Social Services or the Human Resources Administration (N.Y. Soc. Serv. Law § 366(1)(c)).

Legal Analysis

The issue is whether NYSOH properly determined that you and your spouse are not eligible for Medicaid through NYSOH.

To be eligible for MAGI-based Medicaid through NYSOH, a person cannot be entitled to or enrolled in Medicare Part A or B. You testified and the record confirms that both you and your spouse were enrolled in Medicare as of March 2016. Furthermore, a person who is 65 or older is also not eligible for MAGI-based Medicaid through NYSOH. The record reflects that based on your date of birth you turned 65 in [REDACTED] and your spouse turn 65 in in [REDACTED]. Therefore, neither you nor your spouse are eligible for Medicaid through NYSOH. The March 9, 2016 eligibility determination notice stating that you and your spouse were not eligible for Medicaid through NYSOH is therefore correct and is AFFIRMED.

NYSOH does not have the authority to decide if you qualify for non-MAGI-based Medicaid. This is done through your local Department of Social Services (DSS) or New York City Human Resources Administration.

During the hearing, you testified that you have not applied for non-MAGI-based Medicaid through the New York City Human Resources Administration office. Since you and your spouse may be eligible for Medicaid on a non-MAGI basis, NYSOH will refer your case to the New York City Human Resources Administration in your county for consideration.

Decision

The March 9, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: August 25, 2016

How this Decision Affects Your Eligibility

You and your spouse do not qualify for Medicaid through NYSOH.

NYSOH does not have the authority to decide if you or your spouse qualify for non-MAGI Medicaid.

Your case is being referred to the New York City Human Resources Administration in your county for consideration of your eligibility for non-MAGI-based Medicaid.

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)).

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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 March 9, 2016 eligibility determination notice is **AFFIRMED**.

You and your spouse do not qualify for Medicaid through NYSOH.

NYSOH does not have the authority to decide if you or your spouse qualify for non-MAGI Medicaid.

Your case is being referred to the New York City Human Resources Administration in your county for consideration of your eligibility for non-MAGI-based Medicaid.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

