



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

Notice of Decision

Decision Date: October 4, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007842

[REDACTED]

Dear [REDACTED]

On August 29, 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 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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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 son were eligible to enroll in the Essential Plan, effective April 1, 2016?

Did NY State of Health properly determine that you and your son were not eligible for Medicaid, as of March 31, 2016?

Procedural History

On April 1, 2015, NY State of Health (NYSOH) issued an eligibility determination based on your March 31, 2015 application, stating that you and your son were eligible for Medicaid, effective March 1, 2015.

On April 3, 2015, NYSOH issued an enrollment confirmation notice stating that you and your son were enrolled in a Medicaid Managed Care plan with a plan effective start date of May 1, 2015.

On March 3, 2016, NYSOH received your updated application for financial assistance.

On March 4, 2016, NYSOH issued an eligibility determination based on the March 3, 2016 application, stating that you and your son were eligible to enroll in the Essential Plan, effective April 1, 2016. It further stated that you and your son no longer qualify for Medicaid as of March 31, 2016.

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Also on March 4, 2016, NYSOH issued a notice of enrollment confirming your selection of an Essential Plan as of March 3, 2016. The notice further stated that your and your son's Essential Plan coverage would begin as of April 1, 2016.

On March 10, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the eligibility determination insofar as you and your son were not eligible for Medicaid.

On August 29, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, Spanish Interpreter [REDACTED] assisted and interpreted. 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 and your son were found eligible for Medicaid in March 2015. You and your son were enrolled in a Medicaid Managed Care plan starting May 1, 2015.
- 2) The application that you submitted on March 3, 2016 stated that you expected to file your 2016 income taxes with a filing status of married filing jointly. However, you testified that you expect to file your 2016 taxes with a tax filing status of single, head of household. You testified you will not be filing taxes with your spouse in 2016.
- 3) Your March 3, 2016 application stated that you would claim 2 dependents on your 2016 income tax return. However, you testified that you will claim 1 dependent on the 2016 tax return.
- 4) You are seeking insurance for you and your son.
- 5) The application that was submitted on March 3, 2016, in which you requested financial assistance, listed annual household income of \$33,715.24. You testified that this was correct but may turn out to be less depending on the hours you work.
- 6) You testified that you are employed in a store, are paid bi-weekly, and the hours vary but are generally around 37 hours a week. You testified that your regular rate of pay is \$14.00 per hour.
- 7) Your application states that you will not be taking any deductions on your 2016 tax return.

8) You testified that you are seeking to have your and your son's Medicaid eligibility reviewed because you cannot afford the premium cost for dental and vision coverage.

9) Your application states that you live in New York County, New York.

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 \$24,250.00 for a four-person household (80 Federal Regulation 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).

The Essential Plan is considered minimum essential coverage therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

Household Composition

For purposes of Essential Plan eligibility, the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

"Family size" means the number of persons counted as members of an individual's household. The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

In the case of a married couple living together, each spouse is included in the Medicaid household of the other spouse, regardless of whether they expect to file a joint tax return (42 CFR § 435.603 (f)(4)).

In general, household income means the aggregate modified adjusted gross income of every person who is included in the taxpayer's family and is required to file a federal tax return (26 CFR § 1.36B-1(e)).

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 \$24,300.00 for a four-person household (81 Fed. Reg. 4036).

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 son 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 \$33,715.24 and the eligibility determination relied upon that information.

You are in a four-person household. This is because your application stated that you expect to file your 2016 income taxes as married filing jointly and claim two dependents on that tax return. The eligibility determination also relied upon that information.

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 \$24,250.00 for a four-person household. Since an annual household income of \$33,715.24 is 139.03% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan.

The second issue is whether NYSOH properly determined that you and your son 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 \$24,300.00 for a four-person household. Since \$33,715.24 is 138.74% of the 2016 FPL, NYSOH properly found you and your son to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the March 4, 2016 eligibility determination properly stated that, based on the information you provided, you and your son were eligible for the Essential Plan, it was correct and is AFFIRMED.

However, you credibly testified at the hearing that your tax household in 2016 will consist of only you and your son in that you plan on filing your 2016 taxes as head of household with one dependent. Based on this information received at the hearing, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance using a two-person household for all programs except Medicaid where a three-person household, including your spouse, pertains, with an annual income of \$33,715.24 for a primary subscriber and one dependent living in New York County, New York. NYSOH will notify you of its redetermination.

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).

If, however, your circumstances have changed, you are required to notify NYSOH within 30 days of any such change. You can access your NYSOH account and update your application online or by calling the number listed in the footer below.

Decision

The March 4, 2016 eligibility determination notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to redetermine your eligibility for financial assistance using a two-person household for all programs except Medicaid, where your spouse is included for a three-person household, with an annual income of \$33,715.24 for a primary subscriber and one dependent living in New York County, New York. NYSOH will notify you of its redetermination.

Effective Date of this Decision: October 4, 2016

How this Decision Affects Your Eligibility

You and your son were eligible for and enrolled in the Essential Plan.

You and your son were not eligible for Medicaid.

Based on the most current information learned during the hearing, your case is being sent back to NYSOH to redetermine your and your son's eligibility for financial assistance. NYSOH will notify you of its redetermination.

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)).

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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 4, 2016 eligibility determination notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to redetermine your eligibility for financial assistance using a two-person household for all programs except Medicaid, where your spouse is included for a three-person household, with an annual income of \$33,715.24 for a primary subscriber and one dependent living in New York County, New York. NYSOH will notify you of its redetermination.

You and your son were eligible for and enrolled in the Essential Plan.

You and your son were not eligible for Medicaid.

Based on the most current information learned during the hearing, your case is being sent back to NYSOH to redetermine your and your son's eligibility for financial assistance. NYSOH will notify you of its redetermination.

Legal Authority

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A Copy of this Decision Has Been Provided To:

