



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

Notice of Decision

Decision Date: October 17, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008083

[REDACTED]

Dear [REDACTED],

On October 5, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 19, 2016 eligibility redetermination.

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.

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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 NY State of Health properly determine that you were eligible to enroll in the Essential Plan, effective May 1, 2016?

Procedural History

On March 19, 2016, NY State of Health (NYSOH) received your updated application for health insurance. That day, a preliminary eligibility determination was prepared finding you eligible for the Essential Plan, effective May 1, 2016.

Also on March 19, 2016, you spoke with a representative from NYSOH's Account Review Unit and appealed that eligibility redetermination. Along with your appeal, you requested that aid continue with your Medicaid Managed Care plan during the appeal process, which NYSOH granted effective as of March 1, 2016.

On March 19, 2016, NYSOH issued an enrollment confirmation notice that stated your Essential Plan enrollment start date was May 1, 2016.

On March 20, 2016, NYSOH issued an eligibility redetermination notice that was consistent with the March 19, 2016 preliminary eligibility redetermination.

On March 31, 2016, NYSOH issued notices of eligibility redetermination and enrollment that stated you were eligible for Medicaid for a limited time because you had been granted aid to continue until a decision is made on your appeal,

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effective March 1, 2016. An override was conducted to place you back in your Medicaid Managed Care plan as of March 1, 2016.

On October 5, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you the opportunity to submit income documents for September 2016.

On October 6, 2016, the Appeals Unit received a two-page facsimile form you consisting of a September 2016 earnings statement. That same day, this two-page facsimile was made part of the record as "Appellant's Exhibit A" and the record was closed.

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 and will not claim any dependents on that tax return.
- 2) You are seeking insurance for yourself.
- 3) The application that was submitted on March 19, 2016, in which you requested financial assistance, listed annual household income of \$20,951.00, consisting of \$18,500.00 in earned income and \$2,451.00 in unemployment insurance benefits. You testified that this amount was correct for 2015, but would be significantly less in 2016 because you did not work as much.
- 4) You testified that your 2015 earnings were from employments that ended in December 2015 and you expect your gross earnings in 2016 to be between \$6,000.00 and \$8,000.00.
- 5) You testified, and provided documentation, that your monthly income for September 2016 was \$359.00 plus \$70.00, which equals \$429.99 (see Appellant's Exhibit A).
- 6) Your application states that you will not be taking any deductions on your 2016 tax return.
- 7) Your application states that you live in Queens 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 \$11,770.00 for a one-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)).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

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The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see also 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

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 Regulation 4036).

Legal Analysis

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

The application that was submitted on March 19, 2016 listed an annual household income of \$20,951.00 and the eligibility determination relied upon that information.

You are in a one-person household for purposes of this analysis. This is because you expect to file your 2016 income taxes as single and will not claim any 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 \$20,951.00 is 178% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan.

You testified, and the record indicates, that you updated your NYSOH application on March 19, 2016, were found eligible for the Essential Plan as of May 1, 2016 and enrolled into a plan that day.

The date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

On March 19, 2016, you selected an Essential Plan, so your enrollment properly took effect on the first day of the second month following March 2016; that is, on May 1, 2016.

Therefore, the March 19, 2016 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective May 1, 2016, is correct and must be AFFIRMED.

Notwithstanding the foregoing, you credibly testified that you were appealing the gap in coverage for April 2016 that would have occurred had you not appealed and been granted aid to continue, which extended your Medicaid Managed Care plan coverage as of March 1, 2016 throughout this appeal process. Although your appeal on that issue is now moot, you credibly testified at the hearing that projected earnings of \$20,951.00 that you attested to on your March 19, 2016 application was the income you received in 2015 and your income in 2016 has dropped significantly due to lack of work. You testified that you expect to earn between \$6,000.00 and \$8,000.00 in gross income in 2016. You also submitted proof of your gross earnings received in September 2016, which totaled \$429.00. You further testified that you expect to be paid in October 2016 for two days work as an actor in September 2016 at \$400.00 each day, totaling \$800.00, and do not know if you will have other work or receive additional earnings that month.

Since the record now contains a more accurate representation of what your expected 2016 annual and September 2016 monthly household income is, your case is RETURNED to NYSOH to redetermine your eligibility for 2016 coverage based on a one-person household for an individual residing in Queens County with an annual household income of \$8,000.00 and a monthly income in September 2016 of \$429.00.

Decision

The March 20, 2016 eligibility redetermination notice is AFFIRMED.

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The March 19, 2016 enrollment confirmation notice is AFFIRMED.

However, you remained enrolled in your Medicaid Managed Care plan as of March 1, 2016, with aid continuing throughout the appeal process.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance in 2016 based on a one-person household for an individual residing in Queens County with an annual household income of \$8,000.00 and a monthly income in September 2016 of \$429.00. NYSOH will notify you accordingly and facilitate your transition from Medicaid Managed Care continuing aid to enrollment in an appropriate health plan depending on its redetermination of your eligibility for financial assistance.

Effective Date of this Decision: October 17, 2016

How this Decision Affects Your Eligibility

You were eligible for and enrolled in an Essential Plan effective May 1, 2016.

However, you remained enrolled in your Medicaid Managed Care plan as of March 1, 2015, with aid continuing throughout the appeal process.

NYSOH will redetermine your eligibility for financial assistance and notify you of its findings. NYSOH will also assist you in selecting and enrolling in an appropriate health plan depending on its redetermination of your eligibility for financial assistance, including transitioning from Medicaid Managed Care continuing aid to a health plan you select.

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

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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 March 20, 2016 eligibility redetermination notice is AFFIRMED.

The March 19, 2016 enrollment confirmation notice is AFFIRMED.

However, you remained enrolled in your Medicaid Managed Care plan as of March 1, 2016, with aid continuing throughout the appeal process.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance in 2016 based on a one-person household for an individual residing in Queens County with an annual household income of \$8,000.00 and a monthly income in September 2016 of \$429.00. NYSOH will notify you accordingly and facilitate your transition from Medicaid Managed Care continuing aid to enrollment in an appropriate health plan depending on its redetermination of your eligibility for financial assistance.

You were eligible for and enrolled in an Essential Plan effective May 1, 2016.

However, you remained enrolled in your Medicaid Managed Care plan as of March 1, 2015, with aid continuing throughout the appeal process.

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NYSOH will redetermine your eligibility for financial assistance and notify you of its findings. NYSOH will also assist you in selecting and enrolling in an appropriate health plan depending on its redetermination of your eligibility for financial assistance, including transitioning from Medicaid Managed Care continuing aid to a health plan you select.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

