



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

Notice of Decision

Decision Date: September 22, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008113

[REDACTED]

Dear [REDACTED],

On September 19, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 22, 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 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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DEPARTMENT OF HEALTH
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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008113

[REDACTED]

Issues

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

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

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

Procedural History

On March 21, 2016, NYSOH received your updated application for financial assistance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that you were eligible to enroll in the Essential Plan, effective May 1, 2016.

Also on March 21, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were not found eligible for Medicaid.

On March 22, 2016, NYSOH issued an eligibility determination notice based on the March 21, 2016 application, stating that you are eligible to enroll in the Essential Plan, effective May 1, 2016.

Also on March 22, 2016, NYSOH issued a notice of enrollment confirming your selection of an Essential Plan as of March 21, 2016. The notice further stated that your Essential Plan coverage began as of January 1, 2016.

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On September 19, 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 do not expect to file a tax return during 2016 since your only income was from your widow's Social Security benefits, which you understood from your accountant was non-taxable. You further testified that no one claims you as a dependent on their tax return.
- 2) You testified that you live with your daughter, who is 35 years old.
- 3) You are seeking insurance for only yourself.
- 4) The application that was submitted on March 21, 2016, which requested financial assistance, listed annual household income of \$20,592.00, consisting of \$1,716.00 per month in widow's Social Security benefits anticipate receiving during 2016. You testified that this amount was correct.
- 5) You testified that your monthly income for March 2016 was \$1,716.00.
- 6) You testified, and your application reflects, that you will not be taking any deductions that would have reduced your overall income.
- 7) You live in Suffolk County, New York.
- 8) You testified that during 2015 you were enrolled in Medicaid Managed Care (MMC) plan issued Affinity.
- 9) You testified that your provider, [REDACTED] of [REDACTED], has been treating your chronic cardiac issues for some time and that you desired to remain enrolled in your MMC plan that he accepted. You further testified that that your provider did not accept the Essential Plan, and that this would force you to continue your cardiac care with another provider.

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 Fed. Reg. 3236, 3237).

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 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).

Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified

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adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

Legal Analysis

The only 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 21, 2016 listed an annual household income of \$20,592.00 (\$1,716.00 in Social Security benefits x 12 months). Since you received this income from your Social Security benefits, it is properly included within your modified adjusted gross income (MAGI). The eligibility determination relied upon that information.

You are in a one-person household. You testified that you do not expect to file a tax return during 2016 since your only income was from your widow’s Social Security benefits, which you understood from your accountant was non-taxable. You further testified that while you live with your daughter, she is 35 years old. You further testified that no one claims you as a dependent on their 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 \$20,592.00 is 174.95% 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 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 \$11,880.00 for a one-person household. Since \$20,592.00 is 173.33% of the 2016 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

You credibly testified, and the record reflects, that you received \$1,716.00 during the month of your application, March 2016.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,366.00 per month. Since the record reflects that you received \$1,716.00 during March 2016, you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

Since the March 22, 2016 eligibility determination notice properly stated that, based on the information you provided, you were eligible for the Essential Plan, and ineligible for Medicaid, it was correct and is AFFIRMED.

Decision

The March 22, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: September 22, 2016

How this Decision Affects Your Eligibility

You remain eligible for the Essential Plan.

You are not eligible for 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 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:
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- By fax: 1-855-900-5557

Summary

The March 22, 2016 eligibility determination notice is AFFIRMED.

You remain eligible for the Essential Plan.

You are not eligible for 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:

