



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

Notice of Decision

Decision Date: September 8, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008264

[REDACTED]

Dear [REDACTED],

On September 1, 2016, your authorized representative, [REDACTED], appeared on your behalf by telephone at a hearing on your appeal of NY State of Health's March 25, 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 number 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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Issue

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

Did NY State of Health (NYSOH) properly determine that you and your spouse were not eligible to receive Medicaid through NYSOH?

Procedural History

On November 13, 2015, NYSOH issued an eligibility determination notice stating that you and your spouse were jointly eligible for advance premium tax credits of up to \$682.00 per month and cost sharing reductions, effective December 1, 2015.

On March 25, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive advance premium tax credits of up to \$675.00 per month and cost sharing reductions, effective May 1, 2016. The notice further stated that you and your spouse do not qualify for Medicaid because you are 65 years or older.

Also on March 25, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination as it related to your and your spouse's ineligibility for Medicaid through NYSOH.

On July 16, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a qualified health plan at full cost. The notice stated that you and your spouse were not eligible for advance premium tax credits because based on information from federal and state data

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sources you and your spouse were already enrolled in or eligible for public insurance such as Medicaid. The notice further stated that you and your spouse do not qualify for Medicaid through NYSOH because you are 65 years or older.

On September 1, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, your authorized representative [REDACTED], appeared and offered testimony on your behalf. 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) Your Authorized Representative testified that he was your tax preparer and that he had assisted you with your application for health insurance through the New York State of Health.
- 2) Your Authorized Representative 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.
- 3) Your Authorized Representative testified that your expected household annual income for 2015 is \$21,955.00.
- 4) You are seeking insurance for both you and your spouse.
- 5) Your Authorized Representative testified that your advance premium tax credits were insufficient to cover the cost of your and your spouse's health insurance premiums and that you would like to be determined eligible for Medicaid.
- 6) The record reflects you turned age 67 years old and that your birthdate is [REDACTED]. The record further reflects that your spouse is 66 years old and his birthdate is [REDACTED].
- 7) Your Authorized Representative testified that you were found ineligible to enroll in Medicare due to the fact you have not accrued enough credits to be eligible.
- 8) The record reflects that NYSOH referred your case to the Local Department of Social Services on July 6, 2016.
- 9) Your application states that you live in Westchester County.

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

Applicable Law and Regulations

Medicaid

An individual is eligible for enrollment in Medicaid through NYSOH (called MAGI-based Medicaid) when he or she meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

In general, to qualify for MAGI-based Medicaid through NYSOH, you must also be one of the following:

- An adult aged 19-64 who is not eligible for Medicare Part A or Part B,
- A pregnant woman or infant,
- A child aged 1-18, or
- A parent or caretaker relative

(45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

If an individual does not fall into one of these categories, he or she may still be eligible for non-MAGI-based Medicaid coverage through their Local Department of Social Services or the New York City Human Resources Administration (see N.Y. Soc. Serv. Law § 366(1)(c)).

NYSOH is required to refer an individual who is not eligible for MAGI-based Medicaid because they are in receipt of Medicare, certified disabled, or over the age of 65 to the Local Department of Social Services or the Human Resources Administration. During the referral process, an individual's Medicaid eligibility, including their enrollment in a Medicaid Managed Care plan or receipt of Premium Payment Assistance, continues until such a time as their eligibility can be redetermined on a non-MAGI Medicaid basis (see *generally* 42 CFR § 435.1200, 42 CFR § 435.930, 14 OHIP/LCM-2 effective as of December 1, 2014, GIS 16 MA/04 effective as of January 1, 2016).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse were not eligible to receive Medicaid through NYSOH.

Medicaid through NYSOH (called MAGI-based Medicaid) is available to individuals who are between the ages of 19 and 64, who are not eligible for

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Medicare Parts A or B; pregnant women or infants; children between the ages of 1 and 18; and parent or caretaker relatives.

According to your testimony and the information in your NYSOH application, you and your spouse have no dependents and, therefore, you are not a parent or a caretaker relative of a dependent child.

The record reflects that, at the time NYSOH issued the March 25, 2016 eligibility determination you and your spouse were over 65 years old.

Since you and your spouse are over the allowable age limit for MAGI-based Medicaid, and not a parent or caretaker relative, NYSOH properly determined that you and your spouse are not eligible for Medicaid through NYSOH. Therefore, the March 25, 2016 eligibility determination is AFFIRMED.

NYSOH does not have the authority to determine whether or not you qualify for non-MAGI-based Medicaid. That authority lies with the Local Department of Social Services. The record indicates that NYSOH referred your case to the Local Department of Social Services on July 6, 2016. This decision has no effect on any Medicaid coverage you and your spouse may be receiving from your Local Department of Social Services.

Decision

The March 25, 2016 eligibility determination is AFFIRMED.

Effective Date of this Decision: September 8, 2016

How this Decision Affects Your Eligibility

You and your spouse are not eligible for Medicaid through NYSOH.

This decision has no effect on you and your spouse's eligibility for Medicaid through your Local Department of Social Services.

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.

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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

Summary

The March 25, 2016 eligibility determination is AFFIRMED.

You and your spouse are not eligible for Medicaid through NYSOH.

This decision has no effect on you and your spouse's eligibility for Medicaid through your Local Department of Social Services.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]