



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

Notice of Decision

Decision Date: November 17, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000008424

[REDACTED]

Dear [REDACTED],

On September 29, 2016, you, your authorized representative appeared by telephone at a hearing on your appeal of NY State of Health's March 30, 2016 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

Legal Authority

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

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Issues

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

Did New York State of Health properly determine that you were eligible to enroll in the Essential Plan, with a \$20.00 monthly premium, as of March 30, 2016?

Did New York State of Health properly determine that you were not eligible for Medicaid as of March 30, 2016?

Procedural History

On March 29, 2016, you submitted a financial assistance application through New York State of Health (NYSOH). NYSOH rendered a preliminary eligibility determination that you and your child were eligible for a limited time to enroll in the Essential Plan with a \$20.00 premium per month.

Also on March 29, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as the amount of financial assistance you were determined eligible to receive.

On March 30, 2016, NYSOH issued an eligibility determination notice that based on your March 30, 2016 application, you and your child were eligible to enroll in the Essential Plan for a limited time, effective as of May 1, 2016. The notice directed you submit documentation before June 27, 2016 to confirm your household income.

Also on March 30, 2016, NYSOH issued an enrollment notice confirming that as of March 29, 2016, you and your child were enrolled in an Essential Plan with a plan enrollment start date of January 1, 2016.

On June 28, 2016, your NYSOH account was updated.

On June 29, 2016, NYSOH issued an eligibility determination notice, in relevant part, that you were conditionally eligible for Medicaid effective as of July 1, 2016. The notice directed you to provide documentation of your citizenship status by September 26, 2016, to confirm your eligibility.

On September 19, 2016, you mailed an "Authorized Representative Identity Verification Form" to NYSOH. The form authorized your daughter, [REDACTED], to be your representative ([REDACTED]).

On September 29, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Also present were your authorized representative and Spanish interpreter # [REDACTED]. The record was developed during the hearing and left open until October 18, 2016 to allow you additional time to submit documentation.

On October 17, 2016, your authorized representative faxed 9-pages of documents to NYSOH Appeals Unit. Those documents have been collectively marked as "Appellant Exhibit A" and incorporated into the record. The record is now complete and closed.

Findings of Fact

A review of the record supports the following findings of fact:

1. According to your application and testimony, you are applying for health insurance through NYSOH for yourself and your child.
2. Your authorized representative testified that you plan on filing a 2016 federal income tax return, with the tax status of Head of Household (with qualifying individual), and will be claiming one dependent on that tax return.
3. According to your March 29, 2016 NYSOH application, your 2016 expected annual household income is \$30,680.00. Your application lists the following sources of income:
 - (a) you earn \$350.00 per week from [REDACTED]
 - (b) your child earns \$480.00 every two weeks from [REDACTED].

4. According to your March 29, 2016 NYSOH application, you attested that your average monthly income is the same as your current month's income.
5. Your authorized representative testified that you are unable to afford the \$20.00 premium for your Essential Plan coverage.
6. You reside in Kings County, New York.
7. The record was left open until October 18, 2016, to allow you the opportunity to submit your and your child's last four weeks of earnings statements to demonstrate your household income and proof of your immigration status.
8. On October 17, 2016, your authorized representative faxed your last four personal earning statements from [REDACTED]. You were issued:
 - (a) \$390.00 on September 9, 2016 (Voucher No. [REDACTED])
 - (b) \$390.00 on September 16, 2016 (Voucher No. [REDACTED])
 - (c) \$390.00 on September 23, 2016 (Voucher No. [REDACTED])
 - (d) \$390.00 on September 30, 2016 (Voucher No. [REDACTED])(Appellant Exhibit A pgs. 4-7).
9. On October 17, 2016, your authorized representative faxed your child's last two earnings statements from [REDACTED]. Your child was issued:
 - (a) \$403.70 on September 23, 2016 (Advice No. [REDACTED])
 - (b) \$284.89 on October 7, 2016 (Advice No. [REDACTED])(Appellant Exhibit A pgs. 8-9).
10. On October 17, 2016, your authorized representative faxed the front and back of your United State of America Permanent Resident Card. The card indicates that you have been a permanent resident since October 21, 2012 and currently have a category of "FX1" (Appellant Exhibit A pgs. 2-3).

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

Applicable Law and Regulations

Modified Adjusted Gross Income (MAGI)

NYSOH bases its eligibility determinations on MAGI as defined in the federal tax code (45 CFR § 155.300(a), 42 CFR § 603(e), see 26 USC § 36B(d)(2)(B)).

With regard to eligibility for financial assistance through NYSOH, a tax filer's household income includes the MAGI of all the individuals in the taxpayer's household who are required to file a federal tax return for the taxable year (26 CFR § 1.36B-1(e)(1), 42 CFR § 435.603(d)(1)). The MAGI-based income of a child who is not required to file a tax return is not included in household income (42 CFR § 435.603(d)(2)).

A person is not required to file a tax return if their gross income is less than the sum of the exemption amount plus the basic standard deduction allowable for that person (26 USC § 6012(1)(A)). For the 2016 year, a dependent who had yearly gross earned income greater than \$6,300.00 or gross unearned income greater than \$1,050.00 would be required to file a tax return (see IRS Revenue Procedure 2014-61).

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 \$15,930.00 for a two-person household (80 Fed. Reg. 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).

Medicaid:

Medicaid can be provided through the Marketplace to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled

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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)), N.Y. Soc. Serv. 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 \$16,020.00 for a two-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 were eligible for the Essential Plan, with a \$20.00 monthly premium, as of March 30, 2016.

You expect to file your 2016 federal tax return, with the tax status of Head of Household (with qualifying individual), and expect to claim one dependent on that return. Therefore, you are in a two-person household.

A dependent will be required to file a tax return in 2016 if their earned income is greater than \$6,300.00. According to the information in your application, your child had expected earned income in the amount of (\$480.00 X 26) \$12,480.00 from their job. Since your dependent has an expected earned income of more than \$6,300.00, they are required to file a tax return on the basis of their earned income.

In the application that was submitted on March 29, 2016 you attested to an annual household income of \$30,680.00 and the eligibility determination issued on March 30, 2016 relied on 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. Furthermore, 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

On the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since \$30,680.00 is 192.59% of the 2015 FPL, NYSOH

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properly found you to be eligible to enroll in the Essential Plan with a \$20.00 per month premium.

The second issue is whether NYSOH properly determined that were not eligible for Medicaid as of March 29, 2016.

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 MAGI that is at or below 138% of the FPL for the applicable family size.

On the date of your application, the relevant FPL was \$16,020.00 for a two-person household. Since \$30,680.00 is 191.51% of the 2016 FPL, NYSOH properly found you to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

Financial eligibility for Medicaid for applicants is based on current monthly household income and family size. 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 \$1,843.00 per month.

The record reflects that you indicated on your March 29, 2016 application that your average monthly income is the same as your currently monthly income. Since you attested to an annual income of \$30,680.00, your monthly income was $(\$30,680.00/12)$ \$2,556.67. Therefore, your income exceeded the monthly income threshold.

Therefore, NYSOH properly found you not eligible for Medicaid.

The March 30, 2016, eligibility determination is AFFIRMED.

The record was left open until October 18, 2016, to allow you the opportunity to submit your and your child's most recent earnings statements to demonstrate your household income, and proof of your immigration status.

The record reflects that you are consistently issued \$390.00 per week from your employer, and your child is issued approximately $(\$403.70 (+) \$284.89/2)$ \$344.30 every two weeks. Based on the documents provided to NYSOH Appeals Unit, your expected 2016 household income is approximately $(\$20,280.00 (+) 8,951.80)$ \$29,231.80.

Furthermore, your United States of America Permanent Resident Card was submitted to NYSOH Appeals Unit. The card indicates that you have been a permanent resident since October 21, 2012 and currently have a category of "FX1" (Appellant Exhibit A pgs. 2-3).

Since the documentation provided may materially affect the amount of financial assistance you are eligible to receive, your case is REMANDED to the NYSOH for a redetermination of your eligibility based on an expected household income of \$29,231.80, for a two-person household, residing in Kings County, NY.

Your case is RETURNED to NYSOH to redetermine your eligibility based on your immigrant status as a permanent resident.

Decision

The March 30, 2016 eligibility determination is AFFIRMED.

Your case is RETURNED to NYSOH to recalculate your eligibility for financial assistance based on an expected household income of \$29,231.80, for a two-person household, residing in Kings County, NY.

Your case is RETURNED to NYSOH to redetermine your eligibility based on your immigrant status as a permanent resident.

Effective Date of this Decision: November 17, 2016

How this Decision Affects Your Eligibility

NYSOH properly determined that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium as of March 30, 2016.

Your case has been returned to NYSOH to recalculate your eligibility for financial assistance based on an expected household income of \$29,231.80 for a two-person household residing in Kings County, NY.

Your case is returned to NYSOH to redetermine your eligibility based on your immigrant status as a permanent resident.

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 date of the Decision Date, which appears on the first page of this Decision.

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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 date 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 30, 2016 eligibility determination is **AFFIRMED**.

NYSOH properly determined that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium as of March 30, 2016.

Your case is **RETURNED** to NYSOH to recalculate your eligibility for financial assistance based on an expected household income of \$29,231.80, for a two-person household, residing in Kings County, NY.

Your case is **RETURNED** to NYSOH to redetermine your eligibility based on your immigrant status as a permanent resident.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]