



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

Notice of Decision

Notice Date: November 3, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008502

[REDACTED]

Dear [REDACTED]

On October 6, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 16, 2016 and April 1, 2016 eligibility determination notices.

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 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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Decision

Notice Date: November 3, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008502

[REDACTED]

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 son should be disenrolled from your Medicaid Managed Care plan effective March 31, 2016?

Did NYSOH properly determine that you and your son were eligible for the Essential Plan, effective May 1, 2016?

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

Procedural History

On February 13, 2015, NYSOH issued a renewal notice. That notice stated that, based on information from federal and state sources, NYSOH found both you and your son eligible for Medicaid coverage effective April 1, 2015. You and your son were each reenrolled in your prior MMC plan coverage with coverage also beginning as of April 1, 2015.

On February 6, 2016, NYSOH issued a notice that it was time to renew coverage for you and your son. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you and your son would qualify for financial help paying for your health coverage, and that you needed to update your account by March 15, 2016 or you and your son might lose the financial assistance currently being received.

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No updates were made to your account by March 15, 2016.

On March 16, 2016, NYSOH issued an eligibility determination notice stating that you and your son were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You and your son also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame. The eligibility of you and your son ended March 31, 2016.

On March 31, 2016, NYSOH received your updated application for health insurance.

On April 1, 2016, NYSOH issued an eligibility redetermination notice stating that you and your son were eligible for the Essential Plan for a limited time with a monthly premium of \$20.00 per month each, effective May 1, 2016. You were requested to provide documentation proving your income before June 29, 2016 to confirm eligibility for you and your son. You spoke to NYSOH's Account Review Unit and appealed the March 16, 2016 determination insofar as you and your son were disenrolled from your Medicaid coverage effective March 31, 2016, and also challenged that you and your son were found eligible for the Essential Plan effective May 1, 2016.

On April 6, 2016, NYSOH issued a notice of enrollment confirming your Essential Plan selection as of April 5, 2016. The notice also stated that coverage for you and your son would begin effective May 1, 2016.

On April 19, 2016, NYSOH received four earning statement issued to you by your employer, [REDACTED], reflecting payment dates between March 12, 2016 and April 2, 2016.

On October 6, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: (1) earning statements issued to you on March 5, 2016 and (2) all earning statement issued to your son by his employer, [REDACTED] and/or a termination letter issued by [REDACTED] reflecting his last day of employment. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier. No additional documents were received from you by October 21, 2016.

Accordingly, the record was closed on October 21, 2016.

Findings of Fact

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

- 1) The record reflects that you receive all of your notices from NYSOH by regular mail.
- 2) You testified that you did not receive any notices telling you that you needed to update your application in order to renew the Medicaid Managed Care plan coverage for you and your son.
- 3) You testified that you did not know that you needed to update your account until you had received a disenrollment notice stating that coverage for both you and your son would end effective March 31, 2016.
- 4) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 5) The record reflects that on March 31, 2016 NYSOH received your updated application for health insurance.
- 6) Your application reflects that you expect to file your 2016 taxes with a tax filing status of head of household. This application also reflected that you would claim you son as your sole dependent on that tax return.
- 7) You are seeking insurance for you and your son.
- 8) The application that was submitted on March 31, 2016, which requested financial assistance, listed annual household income of \$25,000.00, consisting solely of income you expected to receive from your employer, [REDACTED]. You testified that this amount was correct.
- 9) On April 19, 2016, you provided documentation that you received (1) \$448.00 on March 12, 2016, (2) \$560.00 on March 19, 2016, (3) \$560.00 on March 26, 2016 and \$560.00 on April 2, 2016.
- 10) Your application states that you will not be taking any deductions on your 2016 tax return.
- 11) You live in Queens County, New York.
- 12) You testified that your son was employed by [REDACTED] during the first few months of 2016, but his employment ended when he was

terminated. You further testified that you were unsure of the precise dates of his employment or his termination.

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

Applicable Law and Regulations

Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every twelve months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR §155.335(h)).

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

Medicaid Managed Care (MMC) plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H(6)(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019, N.Y. Soc. Serv. Law §364-j(1)(c); 18 NYCRR § 360-10.3(h)).

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

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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 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 \$16,020.00 for a two-person household (81 Federal Register 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 the enrollment of you and your son in your Medicaid Managed Care plan was terminated effective March 31, 2016.

You were originally found eligible for Medicaid effective April 1, 2015.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's February 6, 2016 renewal notice stated that there was not enough information to determine whether you and your son were eligible to continue your financial assistance for health insurance, and that you needed to supply additional information by March 15, 2016, or the financial assistance for you and your son might end.

Because there was no timely response to this notice, you and your son were terminated from your Medicaid Managed Care plan effective March 31, 2016.

You testified that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, the evidence supports a finding that NYSOH properly notified you of your annual renewal on February 6, 2016 and that information in your NYSOH account needed to be updated by March 15, 2016 in order to ensure your enrollment in your health plan and eligibility for financial assistance would continue.

The record shows that on March 31, 2016 you updated the information in your NYSOH account.

Since you did not update your application prior to the March 15, 2016 deadline, the credible evidence of record confirms that you and your son were properly terminated from your MMC plan coverage effective March 31, 2016.

Therefore, the March 16, 2016 eligibility determination notice stating that the Medicaid eligibility for you and your son ended effective March 31, 2016 is **AFFIRMED**.

The second issue under review is whether NYSOH properly determined that you and your son were eligible to enroll in the Essential Plan effective May 1, 2016.

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The application that was submitted on March 31, 2016 listed an annual household income of \$25,000.00 and the eligibility determination relied upon that information.

You and your son are in a two-person household. You expect to file your 2016 income taxes as head of household and will claim you son as your sole dependent 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 \$15,930.00 for a two-person household. Since an annual household income of \$25,000.00 is 156.94% of the 2015 FPL, NYSOH properly found both you and your son to be eligible for the Essential Plan.

The third issue under review 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 \$16,020.00 for a two-person household. Since \$25,000.00 is 156.05% 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.

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

In additional to the documentation you provided on April 19, 2016, the Hearing Officer requested you to provide the earning statement issued to you by your employer on March 5, 2016, and to also provide either all earning statements issued to your son by his employer, [REDACTED], during the month of March 2016, or in lieu of such earning statements, to provide a letter of termination issued by [REDACTED] indicating his last day of employment.

Since the record reflects that you did not provide the documentation as directed prior to the record closing on October 21, 2016, the Appeals Unit is unable to assess you and your son's eligibility for Medicaid on a monthly household income basis.

Since the April 1, 2016 eligibility determination properly stated that, based on the information you provided, you and your son were eligible for the Essential Plan effective May 1, 2016, it was correct and is AFFIRMED.

Decision

The March 16, 2016 eligibility determination notice is AFFIRMED.

The April 1, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: November 3, 2016

How this Decision Affects Your Eligibility

This decision does not change the eligibility of you and your son.

The MMC plan coverage for you and your son properly ended on March 31, 2016.

The Essential Plan coverage for you and your son began effective May 1, 2016.

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 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.

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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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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The March 16, 2016 eligibility determination notice is AFFIRMED.

The April 1, 2016 eligibility determination notice is AFFIRMED.

This decision does not change the eligibility of you and your son.

The MMC plan coverage for you and your son properly ended on March 31, 2016.

The Essential Plan coverage for you and your son began effective May 1, 2016.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

