



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

## Notice of Decision

Decision Date: October 26, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008523

[REDACTED]

Dear [REDACTED],

On October 3, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's April 1, 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 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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## Decision

Decision Date: October 26, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008523

[REDACTED]

## Issues

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

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

Did NYSOH properly determine that you were not eligible for Medicaid, as of February 29, 2016?

Did NYSOH properly determine that your enrollment in the Essential Plan was effective May 1, 2016?

## Procedural History

On January 13, 2016, NYSOH issued a renewal notice indicating that based on Federal and State sources a decision could not be made about whether you qualified for financial help paying for your health coverage. The notice requested that you update your account by February 15, 2016.

On February 17, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost, effective March 1, 2016.

On February 18, 2016, NYSOH issued a disenrollment notice advising that your enrollment in your Medicaid Managed Care plan would end February 29, 2016.

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On February 22, 2016 you updated your NYSOH account. On February 23, 2016, NYSOH issued a notice indicating that the income information you provided did not match what NYSOH obtained from State and Federal data sources. This same notice requested that you submit income documentation by March 9, 2016.

On March 3, 2016 income documentation was uploaded to your NYSOH account.

On March 14, 2016, NYSOH invalidated the income documentation as the pay stubs submitted were too old. Also on March 14, 2016, NYSOH issued a letter advising you that the documentation you had submitted was insufficient and additional information was required to ensure that NYSOH knew your correct income.

On March 16, 2016 income documentation was uploaded to your NYSOH account.

On March 31, 2016 you contacted NYSOH and updated your account.

On April 1, 2016, NYSOH issued an eligibility determination notice based on the information contained in the March 31, 2016 application, stating that you were eligible to enroll in the Essential Plan for a limited time, effective May 1, 2016.

Also on April 1, 2016, NYSOH issued an enrollment notice, based on your plan selection on March 31, 2016, stating that you were enrolled in an Essential Plan, and that your plan would start May 1, 2016.

Also, on April 1, 2016 you spoke to NYSOH's Account Review Unit and appealed that eligibility determination insofar as you were not eligible for Medicare. Additionally, you appealed the start date of your enrollment in the Essential Plan insofar as it did not begin March 1, 2016.

On October 3, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open for 14 days to allow you time to submit supporting documentation. No documentation was received within the allotted time. The record is now 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. You will claim no dependents on that tax return.

- 2) You are seeking insurance for yourself.
- 3) The application that was submitted on March 31, 2016 listed annual household income of \$23,000.00, consisting of wages you earn from your employment.
- 4) You testified that you are paid every two weeks and that how much you make per week varies. You further testified that you work 37.5 to 40 hours per week, and your hourly rate is \$12.26 per hour.
- 5) On March 16, 2016 income documentation was uploaded to your NYSOH account. You uploaded four paystubs. The first was dated November 15, 2015 for a gross pay amount of \$1,040.00; the second was dated January 31, 2016 for a gross pay amount of \$1,040.00; the third was dated February 15, 2016 for a gross pay amount of \$1,144.00; and the fourth was dated February 29, 2016 for a gross pay amount of \$936.00.
- 6) You testified, and provided documentation, that your monthly income for February 2016 was \$2080.00.
- 7) Your application states, and you testified that, you will not be taking any deductions on your 2016 tax return.
- 8) Your application states, and you testified that, you live in New York County.
- 9) Your NYSOH account indicates that you receive notices from NYSOH by regular mail.
- 10) You testified that you did not receive the January 13, 2016 renewal notice advising you that you needed to update your NYSOH account.
- 11) When you created your NYSOH account on June 30, 2014, you included your apartment number as part of your address on your application. Your apartment number and address have remained the same since you created your account and your apartment number has remained on your NYSOH account and each application since that time.
- 12) The January 13, 2016 renewal notice issued by NYSOH does not contain your apartment number in the address.

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).

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 \$11,880.00 for a one-person household (81 Fed. Reg. 4036).

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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).

### Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

## **Legal Analysis**

The first 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 31, 2016 listed an annual household income of \$23,000.00 and the eligibility determination relied upon that information.

You are in a one-person household. You expect to file your 2016 income taxes as single and will claim no 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 \$23,000.00 is 195.41% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan.

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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 \$23,000.00 is 193.60% 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.

Since the April 1, 2016 eligibility determination notice properly stated that, based on the information you provided, you were eligible for the Essential Plan, it was correct and is AFFIRMED, in so far as it found you eligible for the Essential Plan.

The third issue under review is whether NYSOH properly determined that your enrollment in the Essential Plan was effective May 1, 2016.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual's projected eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On January 13, 2016, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from Federal and State sources, NYSOH could not make a decision about whether or not you would qualify for financial help with paying for your health coverage. You were asked to update the information in your account by February 15, 2016 or the financial help you were receiving might end.

Because there was no timely response to this notice, your eligibility for financial assistance and your enrollment in your Medicaid Managed Care plan was terminated effective February 29, 2016.

However, you testified that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account. Your NYSOH account confirms that you elected to receive notifications by regular mail.

Although your account and applications have consistently included your apartment number as part of your address, the January 13, 2016 renewal notice does not include your apartment number. As NYSOH did not send the renewal



notice to the address contained within your account, NYSOH did not give you proper notice that you needed to update your account.

You first renewed your eligibility for financial assistance through NYSOH for 2016 on February 22, 2016, and therefore we must assume that this is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

The February 22, 2016 update to your account generated a notice from NYSOH indicating that the income information you provided did not match what NYSOH obtained from State and Federal data sources, and that in order for your eligibility to be determined, you must submit income documentation by March 9, 2016.

On March 3, 2016 and March 16, 2016 income documentation was uploaded to your NYSOH account. Additionally, on March 31, 2016 you contacted NYSOH to update your application.

Had you been timely informed of the need to update your account as stated in the renewal notice, you would have been able to resolve the income inconsistency so as to prevent a lapse in your coverage.

Therefore, the April 1, 2016 eligibility determination notice is MODIFIED to state that, effective March 1, 2016, you are eligible to enroll in the Essential Plan, and the April 1, 2016 enrollment confirmation notice is MODIFIED to state your enrollment in your Essential Plan is effective March 1, 2016.

## **Decision**

The April 1, 2016 eligibility determination notice is AFFIRMED, in so far as it found you eligible for the Essential Plan.

The April 1, 2016 eligibility determination notice is MODIFIED to state that, effective March 1, 2016, you are eligible to enroll in the Essential Plan.

The April 1, 2016 enrollment confirmation notice is MODIFIED to state your enrollment in your Essential Plan is effective March 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above.

**Effective Date of this Decision:** October 26, 2016

## **How this Decision Affects Your Eligibility**

You remain eligible for the Essential Plan.

Your eligibility for and your enrollment in the Essential Plan should have begun as of March 1, 2016.

Your case is being sent back to NYSOH to effectuate this change.

## **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.

## **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

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## **Summary**

The April 1, 2016 eligibility determination notice is AFFIRMED, in so far as it found you eligible for the Essential Plan.

The April 1, 2016 eligibility determination notice is MODIFIED to state that, effective March 1, 2016, you are eligible to enroll in the Essential Plan.

The April 1, 2016 enrollment confirmation notice is MODIFIED to state your enrollment in your Essential Plan is effective March 1, 2016.

You remain eligible for the Essential Plan.

Your eligibility for and your enrollment in the Essential Plan should have begun as of March 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above.

## **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**

