



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

Notice of Decision

Decision Date: January 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008617

[REDACTED]

[REDACTED]

On November 23, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 17, 2016 eligibility determinations and enrollment confirmation 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.

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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 your enrollment in an Essential Plan was effective May 1, 2016?

Did NYSOH properly determine that you were not eligible for Medicaid as of your March 16, 2016 application?

Did NYSOH properly determine that you were not eligible for Medicaid in the month of February 2016?

Procedural History

On March 17, 2016, NYSOH issued a notice of eligibility determination, based on your March 16, 2016 application, stating that you were eligible to enroll in the Essential Plan, effective May 1, 2016.

That same day, NYSOH issued a notice of eligibility determination stating that you were not eligible to retroactively receive Medicaid in the month of February 2016 because the program you were eligible for could not pay for any care you received in the past.

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Also on March 17, 2016, NYSOH issued a notice of enrollment, based on your plan selection on March 16, 2016, stating that you were enrolled in an Essential Plan, and that your plan would start May 1, 2016.

On April 4, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential Plan, insofar as it did not begin April 1, 2016, and NYSOH's denial of your request for retroactive Medicaid for the month of February 2016.

On November 23, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open at the end of the hearing so that you could submit proof of your income for the months of February and March 2016. On December 13, 2016, you faxed a ten-page document to NYSOH. The record is now closed.

Findings of Fact

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

- 1) You submitted an application to NYSOH for financial assistance on March 16, 2016.
- 2) Your NYSOH account reflects that you were previously enrolled in Medicaid coverage through NYSOH, and that this coverage ended on January 31, 2016, after you failed to renew your application.
- 3) You testified that you knew you had let your coverage lapse, and that you did so because you thought you would be enrolling in coverage through your employer.
- 4) You testified that you subsequently found out that you would have had to enroll in coverage with your employer in August, which you did not do, so you reapplied for health insurance through NYSOH in March 2016.
- 5) Your March 16, 2016 application lists an expected annual income of \$20,360.60, and you testified that you believed this was correct.
- 6) Your March 16, 2016 application requested help paying medical bills in the last three months, and included monthly income for the month of February 2016 in the amount of \$1,696.72.
- 7) Your March 16, 2016 application indicates that you expect to file your 2016 income taxes as single, and that you will claim no dependents on your tax return.

- 8) You testified that you did not know your monthly income for February or March 2016, but that you think that your monthly income was around \$1,200.00 - \$1,300.00.
- 9) The record reflects that you enrolled in an Essential Plan on March 16, 2016.
- 10) You testified that you were very ill at the time when you applied, and that you incurred hospital bills as a result of being without insurance.
- 11) You testified that you are looking for insurance coverage beginning in February 2016 because you incurred hospital bills, and because you are concerned about having a tax penalty.
- 12) You also testified that you did not pay your Essential Plan premium on time for May 2016, so your coverage was cancelled, and you did not have active coverage again until August 1, 2016.
- 13) After the hearing, you faxed a ten page document to NYSOH, consisting of the following:
 - a. A one-page fax cover sheet;
 - b. Nine pay statements for the following dates and gross amounts:
 - i. 2/12/16 - \$410.52; \$24.63 pre-tax 401K deduction;
 - ii. 2/19/16 - \$332.64; \$19.96 pre-tax 401K deduction;
 - iii. 2/26/16 - \$634.45; \$38.07 pre-tax 401K deduction;
 - iv. 3/4/16 - \$402.60; \$24.16 pre-tax 401K deduction;
 - v. 3/11/16 - \$390.72; \$23.44 pre-tax 401K deduction;
 - vi. 3/18/16 - \$405.24; \$24.31 pre-tax 401K deduction;
 - vii. 3/25/16 - \$553.30; \$33.20 pre-tax 401K deduction;
 - viii. 4/1/16 - \$333.96; \$20.04 pre-tax 401K deduction;
 - ix. 4/8/16 - \$300.96; \$18.06 pre-tax 401K deduction.

These documents are collectively entered into the record as [REDACTED]

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

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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 Federal Register 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).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see *also* 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Medicaid for Adults between the Ages of 19 and 65

Medicaid through NYSOH can be provided 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), 435.911(b)(1), 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, 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).

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied (42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were eligible for coverage through the Essential Plan as of your March 16, 2016 application for financial assistance.

The application that was submitted on March 16, 2016 listed an annual household income of \$20,360.60, 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 MAGI that is between 138% and 200% of the FPL for the applicable family size. On the date of your application,

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the relevant FPL was \$11,770.00 for a one-person household. Since an annual household income of \$20,360.60 is 172.99% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan as of your March 16, 2016 application.

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

You testified, and the record indicates, that you updated your NYSOH application on March 16, 2016. As a result, you were found eligible for the Essential Plan as of March 17, 2016 and enrolled into a plan that day.

The date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

On March 16, 2016, you selected an Essential Plan, so your enrollment properly took effect on the first day of the second month following March; that is, on May 1, 2016.

The third issue under review whether NYSOH properly determined that you were not eligible for Medicaid, as of your March 16, 2016 application.

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 \$11,880.00 for a one-person household. Since \$20,360.00 is 171.39% 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 March 16, 2016 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.

After the hearing, you submitted documentation that showed that your gross income for the month of March 2016 was \$1,751.86. After the deduction of your pre-tax 401K contributions, your countable monthly income was \$1,646.75.

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 \$1,366.20 per month. Since the documentation you provided shows that you earned \$1,646.75 in

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March 2016, you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

Since the March 17, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible to enroll in the Essential Plan, it is correct and is AFFIRMED. Likewise, the March 17, 2016 enrollment confirmation notice, stating that your enrollment in the Essential Plan was effective May 1, 2016, is correct and is AFFIRMED.

The fourth and final issue under review is whether NYSOH properly determined that you were not eligible for Medicaid in the month of February 2016.

NYSOH's March 17, 2016 notice stated that you were not eligible for Medicaid in the month of February 2016 because the program you were found eligible for – the Essential Plan – cannot pay for any care you received in the past.

However, when an individual files an initial application for Medicaid, his or her eligibility for retroactive Medicaid depends on the date of application. To this end, it does not matter whether that initial application resulted in Medicaid going forward. Instead, an individual, who has filed an initial application for Medicaid through NYSOH, has the right to be evaluated for Medicaid for the three months before the month of his or her application. Medicaid coverage can be made effective retroactively for up to three months prior to an individual's application if the individual received medical services that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

You testified that you are seeking to be eligible for Medicaid for the month of February 2016, and you filed your initial application for financial assistance on March 16, 2016.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. To be eligible for Medicaid in February 2016, you would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,366.20 per month. There is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during February 2016.

After the hearing, you uploaded paystubs for the dates of February 12, 19, and 26, 2016. The sum of these paystubs, after deducting your pre-tax 401K contributions was \$1,294.95. However, since you did not submit your paystub for the pay you received on February 5, 2016, your income for the month of February 2016 cannot be accurately determined. Therefore, there is insufficient evidence to return your case to NYSOH for a redetermination, and the March 17,

2016 eligibility determination stating that you were not eligible for Medicaid in the month of February 2016 must be AFFIRMED.

Decision

The March 17, 2016 eligibility determination notice stating that you were eligible to enroll in the Essential Plan effective May 1, 2016 is AFFIRMED.

The March 17, 2016 enrollment confirmation notice stating that your enrollment in your Essential Plan coverage began on May 1, 2016 is AFFIRMED.

The March 17, 2016 eligibility determination stating that you were not eligible for Medicaid in the month of February 2016 is AFFIRMED.

Effective Date of this Decision: January 18, 2017

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

The effective date of your Essential Health Plan is May 1, 2016.

There is insufficient evidence to make a determination as to your financial eligibility for Medicaid in the month of February 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)).

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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 17, 2016 eligibility determination notice stating that you were eligible to enroll in the Essential Plan effective May 1, 2016 is AFFIRMED.

The March 17, 2016 enrollment confirmation notice stating that your enrollment in your Essential Plan coverage began on May 1, 2016 is AFFIRMED.

The March 17, 2016 eligibility determination stating that you were not eligible for Medicaid in the month of February 2016 is AFFIRMED.

This decision does not change your eligibility.

The effective date of your Essential Health Plan is May 1, 2016.

There is insufficient evidence to make a determination as to your financial eligibility for Medicaid in the month of February 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

