



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

Notice of Decision

Decision Date: October 28, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008627

[REDACTED]

Dear [REDACTED]

On October 6, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 31, 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 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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Issues

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

Did NY State of Health properly determine that you were eligible to enroll in the Essential Plan, effective May 1, 2016?

Did NY State of Health properly determine that you were not eligible for Medicaid, as of March 31, 2016?

Procedural History

On February 7, 2016, NYSOH issued a notice that it was time to renew your health insurance for 2016. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by March 15, 2016, or you might lose the financial assistance you were currently receiving.

On March 9, 2016, you updated your NYSOH account. That same day, you also uploaded documentation to your NYSOH account.

On March 10, 2016, NYSOH issued a notice stating that more information was needed in order to make a determination as to your eligibility for coverage and financial assistance. The notice further directed you to submit documentation of your income by March 25, 2016.

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On March 18, 2016, NYSOH issued a notice stating that you had submitted documentation of your income, but that it was not sufficient to resolve NYSOH's documentation request.

On March 23, 2016, you updated more documentation to your NYSOH account.

On March 31, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan, effective May 1, 2016.

Also on March 31, 2016, you updated your NYSOH account.

On April 1, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan for a limited time, effective May 1, 2016. The notice further directed you to submit documentation of your income by June 29, 2016.

On April 4, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan, effective May 1, 2016.

Also on April 4, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as your Essential Plan coverage began on May 1, 2016 and not April 1, 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 kept open for fifteen days at the end of the hearing to give you the opportunity to submit paystubs for the months of April 2016 and September 2016, as well as your year-to-date income through the end of September 2016. On October 12, 2016 you uploaded four documents to your NYSOH account. The record is now closed.

Findings of Fact

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

- 1) You testified that you are seeking to be eligible for Medicaid instead of the Essential Plan, and that you are seeking for that eligibility to begin as of April 1, 2016.
- 2) Your March 31, 2016 application indicates that you expect to file your 2016 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 3) The application that was submitted on March 31, 2016, which requested financial assistance, listed annual household income of \$19,140.00,

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consisting of earned income from employment. You testified that this amount may have been a correct projection at the time, but that your hours have been reduced.

- 4) You testified that, even at the time of your application, your income was not consistent.
- 5) You testified that it is a hardship to pay the costs associated with the Essential Plan, including the premium and the copays.
- 6) You testified that you think you updated your account online when you recertified, and then called regarding the request for documentation.
- 7) You testified that you submitted three weeks of paystubs originally, and were then informed over the phone that you needed to submit four weeks of paystubs.
- 8) The record reflects that, on March 9, 2016, you uploaded three paystubs with paydates of January 27, 2016, February 10, 2016, and February 24, 2016 (see documents [REDACTED] and [REDACTED]).
- 9) The record reflects that you uploaded two more documents to your NYSOH account on March 23, 2016, consisting of two "Employee Earnings Record Reports." The report for the period of 01/01/2016 to 02/01/2016 shows gross earnings of \$588.50, and the report for the period of 02/01/2016 to 02/29/2016 shows gross earnings of \$1595.95 (see documents [REDACTED] and [REDACTED]).
- 10) The record reflects that NYSOH verified document [REDACTED] on March 30, 2016 and April 4, 2016.
- 11) You testified that you submitted the income documentation by the deadline given to you by NYSOH, so you believe your coverage should begin April 1, 2016, not May 1, 2016.
- 12) After the hearing, you uploaded four documents to your NYSOH account. The first page was a cover sheet, and the second page was a copy of the first page of the September 14, 2016 Notice of Telephone Hearing. The third and fourth pages were two "Custom Employee Earnings Report[s]" as follows:
 - a. The first was for the period of 3/23/2016 to 4/13/2016, showing total gross pay of \$29.50. The page has a handwritten note on the bottom that says "Wages Paid in April."

- b. The second earnings report was for the period of August 24, 2016 to September 14, 2016, and showed total gross pay for that time period of \$1,134.27. Again, the page has a handwritten note that says “Wages Paid in Sept.”

Together, these four pages are entered into the record as “Appellant’s Exhibit One.”

13) Your application states that you will not be taking any deductions on your 2016 tax return.

14) Your application states that you live in Kings County.

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 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).

The Essential Plan is considered minimum essential coverage therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

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).

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).

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)).

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 \$19,140.00, 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 \$19,140.00 is 162.62% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan.

You testified that you believe your coverage should have started on April 1, 2016 because you submitted income documentation by the deadline stated in the March 10, 2016 notice requesting additional information. However, the effective date of an individual's coverage in an Essential Plan is determined by the day on which a plan selection is made. Plans selected on or before the fifteenth of the month will go into effect on the first day of the following month, while plans selected after the fifteenth of the month go into effect the first day of the second following month.

Thought you first updated your account on March 9, 2016, you did not submit all the requested documentation to confirm your eligibility until March 23, 2016. Therefore, since your application was not completed until after March 15, 2016, and since you selected a plan on April 7, 2016, NYSOH properly determined that your Essential Plan eligibility and coverage began on May 1, 2016.

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 \$19,140.00 is 161.11% of the 2016 FPL, NYSOH

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properly found you 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.

You testified that your income is very inconsistent, and was at the time of your March application as well. Further, you testified that your income has since decreased, as your hours have been reduced, so you no longer believe that the annual income you attested to in your March 31, 2016 application is accurate.

After the hearing, you were given the opportunity to submit income documentation for the months of April and September 2016 so that your eligibility for Medicaid could be reviewed beginning April 1, 2016 or, alternatively, beginning September 1, 2016.

After the hearing, you submitted documentation to NYSOH. However, that documentation shows income through April 13, 2016 and through September 21, 2016. The documents you submitted do not make it clear whether you received other income in the months in question.

Since there is not enough information to return your case for a new determination as to your eligibility, the March 31, 2016 eligibility determination, stating that you were eligible to enroll in the Essential Plan effective May 1, 2016 is **AFFIRMED**.

If you upload further documentation to your NYSOH account to prove what your total gross income was for the month of April 2016, then NYSOH will redetermine your eligibility for Medicaid, effective April 1, 2016, on a monthly income basis, based on the documentation submitted. Any further documentation you wish to submit must be uploaded within sixty (60) days of the date of this decision.

Additionally, if you wish to find out whether you are eligible for Medicaid at this point and going forward, you can update the information in your NYSOH account, and NYSOH will issue an updated eligibility determination.

Decision

The March 31, 2016 eligibility determination notice is **AFFIRMED**.

If you wish to find out whether you were eligible for Medicaid based on monthly income beginning April 1, 2016, you must submit further documentation to NYSOH to show your total gross income for the month of April 2016 within 60 days of the date of this decision. At that point, NYSOH will redetermine your eligibility for Medicaid on a monthly income basis, effective April 1, 2016.

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Effective Date of this Decision: October 28, 2016

How this Decision Affects Your Eligibility

You remain eligible for the Essential Plan at this time.

Your Essential Plan coverage properly began on May 1, 2016.

If you submit further documentation within sixty days of the date of the decision to prove your total gross monthly income for the month of April 2016, NYSOH will redetermine your eligibility for Medicaid on a monthly income basis, effective April 1, 2016.

If you wish to find out whether you may be eligible for Medicaid going forward, you must update your NYSOH application so that new eligibility determination can be made.

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

Summary

The March 31, 2016 eligibility determination notice is **AFFIRMED**.

If you wish to find out whether you were eligible for Medicaid based on monthly income beginning April 1, 2016, you must submit further documentation to NYSOH to show your total gross income for the month of April 2016 within 60 days of the date of this decision. At that point, NYSOH will redetermine your eligibility for Medicaid on a monthly income basis, effective April 1, 2016.

You remain eligible for the Essential Plan at this time.

Your Essential Plan coverage properly began on May 1, 2016.

If you submit further documentation within sixty days of the date of the decision to prove your total gross monthly income for the month of April 2016, NYSOH will redetermine your eligibility for Medicaid on a monthly income basis, effective April 1, 2016.

If you wish to find out whether you may be eligible for Medicaid going forward, you must update your NYSOH application so that a new eligibility determination can be made.

Legal Authority

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

A Copy of this Decision Has Been Provided To:



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