



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

Notice of Decision

Decision Date: November 7, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008880

[REDACTED]

Dear [REDACTED]

On October 27, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 14, 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 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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NY State of Health Account ID: [REDACTED]
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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 were eligible to enroll in the Essential Plan, effective May 1, 2016, and not eligible for Medicaid?

Procedural History

On December 30, 2015, NYSOH issued an eligibility redetermination notice that stated you were newly eligible to enroll in the Essential Plan, effective January 1, 2016 and you no longer qualify for Medicaid as of December 31, 2015. You were enrolled in an Essential Plan 4, with no monthly premium effective January 1, 2016.

On April 13, 2016, NYSOH received your updated application for health insurance. That day, a preliminary eligibility determination was prepared stating that you were eligible for the Essential Plan.

Also on April 13, 2016, you contacted NYSOH's Account Review Unit and appealed the preliminary eligibility determination, insofar as it stated that you were not eligible for Medicaid.

On April 14, 2016, NYSOH issued a notice of eligibility determination, based on your April 13, 2016 application, stating that you are eligible to enroll in the Essential Plan, with no monthly premium, effective May 1, 2016. You qualified for the Essential Plan because your income was less than the allowable income limit

and you were in the first five years of your qualified immigration status or you are living in the United States under the color of law.

On October 27, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) You are seeking insurance for yourself.
- 2) Your application states that you will not be filing taxes.
- 3) According to your NYSOH account and your testimony, you have a permanent resident card (I-551), which is valid through 7/29/2025.
- 4) You testified that you obtained permanent resident status approximately one to two years ago.
- 5) The application that was submitted on December 21, 2015 and again on April 13, 2016, in both of which you requested financial assistance, listed annual household income of \$0.00.
- 6) You are seeking to have your Medicaid coverage reinstated because your Essential Plan does not cover the home health services you need because of your medical condition.

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

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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>).

Medicaid

A person who meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard is eligible for Medicaid benefits (45 CFR § 155.305(c)). One of the non-financial criteria for Medicaid eligibility is the immigration status of the person applying for health insurance. A person is eligible for Medicaid when his or her immigration status is satisfactory and he or she meets all other requirements for Medicaid (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 applications, that was the 2016 FPL, which is \$11,880.00 for a one-person household (81 Fed. Reg. 4036).

Qualified Immigrants

In NY State, qualified immigrants who were formerly eligible for Medicaid through the state, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of January 1, 2016 (New York's Basic Health Plan Blueprint, p. 19, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>). This category of qualified immigrants includes individuals lawfully admitted for permanent residence in the United States who are still in their first five years of permanent residency. (18 NYCRR § 349.3, 8 USC § 1613).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were eligible to enroll in the Essential Plan, effective again as of May 1, 2016, and not eligible for Medicaid.

The applications that were submitted on December 21, 2015 and April 13, 2016, both listed an annual household income of \$0.00 and the eligibility determination relied upon that information.

According to your application, 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 lawfully present individuals, who are ineligible for Medicaid or Child Health Plus as a result of their immigration status, and have a household income that is between 0% and 200% of the FPL. 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 applications, the relevant FPL (2015) for the Essential Plan was \$11,770.00 and the relevant FPL (2016) for Medicaid was \$11,880.00, both for a one-person household. Since an annual income of \$0.00 is 0% of the 2015 FPL and 0% of the 2016 FPL, you met the financial eligibility criteria for both the Essential Plan and Medicaid.

However, you testified that you are a permanent resident, and have had permanent resident status for one to two years. As of January 1, 2016, legal permanent residents who were receiving Medicaid through NY State, but were not eligible for Medicaid under federal law due to being in the first five years of their permanent residency, must now receive coverage through the Essential Plan. Therefore, because you are in your first five years of permanent residency, NYSOH properly determined that you do not meet the non-financial requirements for Medicaid.

Since you meet the non-financial and financial requirements for the Essential Plan, NYSOH properly determined you to be eligible for Essential Plan coverage.

Therefore, since the April 14, 2016, eligibility determination properly stated that, based on the information you provided, you were eligible for the Essential Plan effective May 1, 2016, it was correct and is AFFIRMED.

However, an individual who is no longer eligible for Medicaid through NYSOH under Non-MAGI based standards, may return to their Local New York City

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Human Resources Administration (HRA) for redetermination of their Medicaid eligibility.

Decision

The April 14, 2016 eligibility determination is AFFIRMED.

Effective Date of this Decision: November 7, 2016

How this Decision Affects Your Eligibility

You remain eligible for the Essential Plan.

You are not eligible for Medicaid.

You may return to your Local New York City Human Resources Administration (HRA) for redetermination of your Medicaid eligibility.

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:
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Summary

The April 14, 2016 eligibility determination is **AFFIRMED**.

You remain eligible for the Essential Plan.

You are not eligible for Medicaid.

You may return to your Local New York City Human Resources Administration (HRA) for redetermination of your Medicaid eligibility.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

