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

Notice of Decision

Decision Date: November 08, 2016

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000009198

[redacted]

Dear [redacted],

On October 17, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's April 27, 2016 eligibility determination notice.

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

Decision

Decision Date: October 20, 2016

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000009198

[redacted]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

> Did NY State of Health properly determine that you were not eligible for Medicaid, as of April 26, 2016?

Procedural History

On April 26, 2016, NY State of Health (NYSOH) received your updated application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible for the Essential Plan.

Also on April 26, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were not eligible for Medicaid.

On April 27, 2016, NYSOH issued an eligibility determination based on the April 26, 2016 application, stating that you were eligible to enroll in the Essential Plan for a limited time, effective June 1, 2016. The notice stated that you were not eligible for Medicaid because your household income was over the allowable income limit for that program.

On August 23, 2016 NYSOH issued an eligibility determination notice stating that you do not qualify for Medicaid through NYSOH because state and federal data sources show that you are receiving Medicare and you are not a parent or caretaker relative.

On October 17, 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) The application that was submitted on April 26, 2016 indicates that you expect to file your 2016 taxes with a tax filing status of single and that you will claim no dependents on that tax return.

2) The application that was submitted on April 26, 2016, which requested financial assistance, listed annual household income of $16,428.00, consisting of money you receive from Social Security disability benefits. You testified that this amount was correct.

3) You testified that you receive $1,369.00 per month in Social Security disability benefits.

4) You testified that you became eligible for Medicare as of July 1, 2016 and that your enrollment in a Medicare Part B plan would become effective as of December 1, 2016.

5) You testified that you applied for Medicaid through your Local Department of Social Services and that you were told you would only be eligible for coverage with a spenddown which you could not afford.

6) You testified that you are seeking Medicaid through NYSOH because you were told you were only a few dollars off from the Medicaid limit.

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).

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 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 issue under review is whether NYSOH properly determined that you were not eligible for Medicaid.

The application that was submitted on April 26, 2016 listed an annual household income of $16,428.00 and the eligibility determination relied upon that information.

According to your April 26, 2016 application, you are in a one-person household. You expected to file your 2016 income taxes as single and will claim no dependents on that tax return.

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 138.00% 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 $16,428.00 is 138.28% of the 2016 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis.

However, financial eligibility for Medicaid for applicants can also be based on current monthly household income and family size.

You testified that you receive $1,369.00 per month in Social Security disability benefits.

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 $1,367.00 per month. Since your testimony is that that you earn $1,369.00 per month you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

Furthermore, you testified that you became eligible for Medicare as of July 1, 2016 and that your enrollment in a Medicare Part B plan would be effective as of December 1, 2016. Medicaid through NYSOH (called MAGI-based Medicaid) is available to individuals who are between the ages of 19 and 64, who are not eligible for Medicare Parts A or B; pregnant women or infants; children between the ages of 1 and 18; and parent or caretaker relatives.

Since you are now eligible for Medicare, you would not be eligible for MAGI-based Medicaid through NYSOH even if your income dropped below the 138% FPL threshold.

Therefore, the April 27, 2016 eligibility determination notice finding you not eligible for Medicaid, is AFFIRMED

Decision

The April 27, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: October 20, 2016

How this Decision Affects Your Eligibility

You are not eligible for Medicaid through NYSOH.

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 after 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 April 27, 2016 eligibility determination notice is AFFIRMED.

You are not eligible for Medicaid through NYSOH.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

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).