



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

Notice of Decision

Decision Date: November 16, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009201

[REDACTED]

Dear [REDACTED],

On November 8, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 27, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: November 14, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009201

[REDACTED]

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 and your spouse were eligible to enroll in the Essential Plan, effective May 1, 2016, and no longer qualified for Medicaid as of April 30, 2016?

Procedural History

On April 21 and 26, 2016, NYSOH received your updated application for health insurance.

On April 21 and 26, 2016, NYSOH preliminarily redetermined your and your spouse's eligibility and found you both eligible to enroll in the Essential Plan, with no monthly premium, effective May 1, 2016.

On April 26, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of those eligibility determinations insofar as you and your spouse were no longer eligible for coverage under Medicaid.

On April 27, 2016, NYSOH issued an eligibility redetermination notice that was consistent with the April 26, 2016 preliminary redetermination. The notice also stated that you and your spouse qualified for the Essential Plan because your income was less than the allowable income limit and you both were in the first five years of your qualified immigration status.

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On November 8, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to allow you to submit supporting documents. On November 8, 2016, proof of citizenship documentation was uploaded to your NYSOH account and the record was closed.

Findings of Fact

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

- 1) You are seeking insurance for yourself and your spouse.
- 2) According to your NYSOH account, you will be filing taxes with a filing status of married filing jointly and claiming two dependents on your tax return.
- 3) You testified that you have been in this country working since 2002 and your spouse has been in this country working since 2006. You testified that you had a work permit and visa until the time your application for a permanent resident card was processed. You now have a permanent resident card.
- 4) You uploaded copies of citizenship documentation for you and your spouse to your NYSOH account. This documentation includes your I-797A Petition with an I-94 Arrival and Departure Record and H1B1 status dated 2003-2006 (Document # [REDACTED]) your I-797A Petition with an I-94 Arrival and Departure Record and H1B1 status dated 2002-2005 (Document # [REDACTED]) your I-766 Employment Authorization Card dated 2014-2015 (Document # [REDACTED]) your Permanent Resident Card, which is current and valid beginning April 13, 2015 (Document # [REDACTED]) your spouse's R Work Visa with an H4 status and dated 2005-2006 (Document # [REDACTED]) your spouse's I-766 Employment Authorization Card dated 2014-2015 (Document # [REDACTED]) and your spouse's Permanent Resident Card which is current and valid beginning April 13, 2015 (Document # [REDACTED]).
- 5) According to your NYSOH account, you fall under the E36 which means you are an alien who is a skilled worker. Your spouse is classified as an E39, which means she is a spouse of an alien who is a skilled worker.
- 6) According to your NYSOH account, you and your spouse obtained permanent resident status on April 13, 2015.

- 7) The application that was submitted on April 21, 2016, which requested financial assistance, listed an annual household income of \$33,161.00.

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 \$24,250.00 for a four-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 application, that was the 2016 FPL, which is \$24,300.00 for a four-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 and your spouse were eligible to enroll in the Essential Plan, effective May 1, 2016, and no longer qualified for Medicaid, effective April 30, 2016.

The applications that were submitted on April 21 and 26, 2016 listed an annual household income of \$33,161.00 and the eligibility redeterminations relied upon that information.

According to your application, you and your spouse are in a four-person household. This is because you expect to file your 2016 income taxes as married filing jointly and will claim two dependents on that tax return.

The Essential Plan is provided through NYSOH to individuals who are lawfully present non-citizens 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 application, the relevant FPL was \$24,250.00 for a four-person household. Since an annual income of \$33,161.00 is 136.75% of the 2015 FPL and 136.47% of the 2016 FPL, you meet the financial eligibility criteria for both the Essential Plan and Medicaid.

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However, 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 “qualified alien” status, must now receive coverage through the Essential Plan. Although you testified that you and your spouse have been working and residing in New York State well over five years, and the citizenship documentation you uploaded confirms this, your status as non-immigrant citizens with work authorization only does not create a “qualified alien” status for purposes of health coverage. On the other hand, permanent residency does meet the requirement for a “qualified alien” status. The citizenship documentation that was uploaded to your NYSOH account indicates that you and your spouse are permanent residents, and have had permanent resident status since April 23, 2015. Therefore, “qualified alien” status for purposes of health coverage for you and your spouse began on that date, which is less than five years ago.

Since you and your spouse are in your first five years of permanent residency, NYSOH properly determined that you and your spouse do not meet the non-financial requirements for Medicaid.

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

Therefore, since the April 22 and 27, 2016 eligibility redetermination notices properly stated that, based on the information you provided, you and your spouse were eligible for the Essential Plan effective May 1, 2016, those notices were correct and are AFFIRMED.

Decision

The April 22 and 27, 2016 eligibility redetermination notices are AFFIRMED.

Effective Date of this Decision: November 16, 2016

How this Decision Affects Your Eligibility

You and your spouse remain eligible for the Essential Plan, effective May 1, 2016.

You and your spouse no longer qualified for Medicaid as of April 30, 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)).

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 22 and 27, 2016 eligibility redetermination notices are **AFFIRMED**.

You and your spouse remain eligible for the Essential Plan, effective May 1, 2016.

You and your spouse no longer qualified for Medicaid, effective April 30, 2016.

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).

Legal Authority

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

A Copy of this Decision Has Been Provided To:

