



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

Notice of Decision

Decision Date: November 4, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009216

[REDACTED]

Dear [REDACTED]

On November 1, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 25, 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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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 April 1, 2016?

Did NY State of Health properly determine that you were no longer eligible for Medicaid, as of March 31, 2016?

Procedural History

On April 22, 2015, NY State of Health (NYSOH) issued an eligibility determination notice based on your April 21, 2015 application for financial assistance. That notice stated you were eligible for Medicaid Effective April 1, 2015. You subsequently enrolled in a Medicaid Managed Care plan.

On February 24, 2016, NYSOH received your updated application for financial assistance.

On February 25, 2016, NYSOH issued an eligibility determination based on the February 24, 2016 application, stating that you are eligible to enroll in the Essential Plan, effective April 1, 2016. It further stated that you no longer qualify for Medicaid effective March 31, 2016. The determination was based on your attested household income of \$18,000.00.

Also on February 25, 2016 an enrollment confirmation notice was issued confirming your enrollment in the Essential Plan effective April 1, 2016.

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On April 27, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you were not eligible for Medicaid.

On November 1, 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) Your application states you will not be filing taxes for 2016. You could not claim any dependents if you did file a tax return.
- 2) You are seeking insurance for yourself.
- 3) You testified you submitted an application for financial assistance on February 24, 2016.
- 4) The application that was submitted on February 24, 2016, which requested financial assistance, listed annual household income of \$18,000.00, consisting of money you receive from your Social Security Disability benefits. You testified that this amount was actually lower. You testified it should have been \$16,000.00 a year.
- 5) You testified you are certified disabled.
- 6) You testified that your monthly income for Social Security Disability was \$1,506.00 a month.
- 7) You testified you are eligible for and currently enrolled in Medicare Part A and B. You further testified that this costs you \$128.00 a month.
- 8) You testified that you have not applied for Medicaid through your Local Human Resources Administration in Queens.
- 9) You testified you would like your household utilities and rent expenses included in your annual income analysis.
- 10) Your application states that you will not be taking any deductions on your 2015 tax return.

11) Your application states that you live in Queens County. You testified this was correct.

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

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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 general, to qualify for MAGI-based Medicaid through NYSOH, you must also be one of the following:

- An adult aged 19-64 who is not eligible for Medicare Part A or Part B,
- A pregnant woman or infant,
- A child aged 1-18, or
- A parent or caretaker relative

(45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

If an individual does not fall into one of these categories, he or she may still be eligible for non-MAGI-based Medicaid coverage through their Local Department of Social Services or the New York City Human Resources Administration (see N.Y. Soc. Serv. Law § 366(1)(c)).

NYSOH is required to refer an individual who is not eligible for MAGI-based Medicaid because they are in receipt of Medicare, certified disabled, or over the age of 65 to the Local Department of Social Services or the Human Resources Administration. During the referral process, an individual's Medicaid eligibility, including their enrollment in a Medicaid Managed Care plan or receipt of Premium Payment Assistance, continues until such a time as their eligibility can be redetermined on a non-MAGI Medicaid basis (see *generally* 42 CFR § 435.1200, 42 CFR § 435.930, 14 OHIP/LCM-2 effective as of December 1, 2014, GIS 16 MA/04 effective as of January 1, 2016).

Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term "modified adjusted gross income" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

"Adjusted gross income" means, in the case of an individual taxpayer, gross federal taxable income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)). Living

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expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were eligible for the Essential Plan, effective April 1, 2016.

The application that was submitted on February 24, 2016 listed an annual household income of \$18,000.00 and the eligibility determination relied upon that information.

You are in a one-person household. You testified you do not file taxes, and if you were to file taxes you would not claim any dependents.

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 Federal Poverty level (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 \$18,000.00 is 152.93% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan.

The second issue is whether NYSOH properly determined that you were no longer eligible for Medicaid effective March 31, 2016.

You testified you believed your income was incorrect, and that it was closer to \$16,000.00. However, you also testified you receive \$1,506.00 a month in Social Security Disability benefits. This amount over a twelve month period would be \$18,072.00.

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 \$11,770.00 for a one-person household. Since \$18,000.00 is 152.93% of the 2015 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

During your hearing, you requested that your monthly expenses be considered in your adjusted household income. Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

Since the February 25, 2016, eligibility determination properly stated that, based on the information you provided, you were eligible for the Essential Plan, effective April 1, 2016 no longer eligible for Medicaid effective March 31, 2016, it is correct and is AFFIRMED.

During your hearing you stated you are eligible for and currently enrolled in Medicare Part A and B. As a result you are no longer eligible for Medicaid through NYSOH.

Individuals who are no longer eligible for MAGI-based Medicaid because they are receiving Medicare, over the age of 65, or have become certified disabled may qualify for Medicaid under non-MAGI standards. NYSOH is required to refer these individuals to their New York City Human Resources Administration (HRA) for redetermination of their Medicaid eligibility.

Therefore, your case is RETURNED to NYSOH to refer your case to the Queens County HRA.

Decision

The February 25, 2016, eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to refer your case to the Queens County HRA.

Effective Date of this Decision: November 4, 2016

How this Decision Affects Your Eligibility

You are eligible for the Essential Plan effective April 1, 2016.

You are no longer eligible for Medicaid effective March 31, 2016.

Your case is being referred to Queens, County HRA for consideration of your eligibility for non-MAGI-based Medicaid.

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.

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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 February 25, 2016, eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to refer your case to the Queens County HRA.

You are eligible for the Essential Plan effective April 1, 2016.

You are no longer eligible for Medicaid effective March 31, 2016.

Your case is being referred to Queens County HRA for consideration of your eligibility for non-MAGI-based Medicaid.

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A Copy of this Decision Has Been Provided To:

