



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

Notice of Decision

Decision Date: November 14, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009239

[REDACTED]

Dear [REDACTED]

On November 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 21, 2016 eligibility redetermination 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 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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Appeal Identification Number: AP000000009239



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 January 1, 2016 and again as of June 1, 2016, and not eligible for Medicaid?

Procedural History

On January 14, 2016, NYSOH issued an eligibility redetermination notice that stated you were eligible to enroll in the Essential Plan for a limited time, effective January 1, 2016.

Also on January 14, 2016, NYSOH issued an enrollment notice confirming your enrollment in an Essential Plan 4 with no monthly premium, effective January 1, 2016.

Thereafter, you updated your NYSOH application and continued to found eligible for and enrolled in the Essential Plan.

On April 21, 2016, based on your April 20, 2016 updated application, NYSOH issued an eligibility redetermination notice that stated you were eligible to enroll in the Essential Plan, effective June 1, 2016

Also on April 21, 2016, NYSIOH issued an enrollment notice confirming that you were enrolled in an Essential Plan 4, effective January 1, 2016.

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On April 27, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of those eligibility determinations insofar as you were not eligible for coverage under Medicaid because you were not lawfully present.

On November 7, 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 are divorced, will not be filing taxes, and have zero income. You testified that this information is correct.
- 3) You testified that you are single and have no dependents.
- 4) According to your NYSOH account, you are 60 years of age.
- 5) You testified that you receive support from your family and friends.
- 6) You testified that you have an I-551 permanent resident card, which expires 09/16/2029, and that you're an immigrant non-citizen.
- 7) You testified that you obtained permanent resident status in 2015.
- 8) You provided documentary proof that you reside in [REDACTED]
- 9) You are seeking to be redetermined eligible for Medicaid because you have a co-pay of \$15.00 under your Essential Plan for the medication you take that you cannot afford.

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

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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>).

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 January 1, 2016, and not eligible for Medicaid.

The applications that were submitted on January 13, 2016 and April 20, 2016 listed an annual household income of \$0.00 and the eligibility redeterminations relied upon that information.

According to your application, you are in a one-person household. This is because you are single, have no dependents, have no income, and will not be filing a federal 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 \$11,770.00 for a one-person household. Since a zero annual income is 0% of the 2015 FPL and 0% of the 2016 FPL, you meet 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 since 2015. As of January 1, 2016, legally 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 January 14, 2016 eligibility redetermination notice properly stated that, based on the information you provided, you were eligible for the Essential Plan effective January 1, 2016 and the April 21, 2016 eligibility

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redetermination stated you were again eligible for the Essential Plan as of June 1, 2016, both notices were correct and is AFFIRMED.

Decision

The January 14, 2016 and April 21, 2016 eligibility redetermination notices are AFFIRMED.

This decision does not affect any subsequent eligibility determinations made by NYSOH.

Effective Date of this Decision: November 14, 2016

How this Decision Affects Your Eligibility

You remain eligible for the Essential Plan.

You are not eligible for 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.

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.

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If You Have Questions about this Decision (Customer Service Resources):

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Summary

The January 14, 2016 and April 21, 2016 eligibility redetermination notices are AFFIRMED.

This decision does not affect any subsequent eligibility determinations made by NYSOH.

You remain eligible for the Essential Plan.

You are not eligible for Medicaid.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

