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

Notice of Decision

Decision Date: February 14, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000010002

Dear [redacted],

On January 19, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 21, 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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nystateofhealth
The Official Health Plan Marketplace

STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: February 14, 2017

NY State of Health Account ID: [redacted]
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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 July 1, 2016?
>
> Did NY State of Health properly determine that you were not eligible for Medicaid, as of July 1, 2016?

Procedural History

On May 20, 2016, NY State of Health (NYSOH) received your updated application for financial assistance.

On May 21, 2016, NYSOH issued an eligibility determination based on the May 20, 2016 application, stating that you were eligible to enroll in the Essential Plan, effective July 1, 2016. It further stated that your child was no longer eligible for Medicaid, but her coverage would continue until May 31, 2017.

On May 21, 2016, an enrollment confirmation notice was issued confirming your enrollment on May 20, 2016, in the Essential Plan effective July 1, 2016, and your child's enrollment in a Medicaid Managed Care plan effective June 1, 2016.

On May 31, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you were not eligible for Medicaid effective July 1, 2016.

On June 6, 2016 you were granted Aid to Continue through the length of your appeal.

A hearing was scheduled for November 29, 2016. A Hearing Officer contacted you on November 29, 2016 but was unable to reach you. A dismissal was issued to your address.

On December 12, 2016, NYSOH received your request to vacate your dismissal which was granted, and your case was rescheduled.

On January 19, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open 15 days for you to provide documentation confirming your income for the month of May, 2016. Documentation was received by the Appeals Unit on January 19, 2017, in the form of a three-page fax and incorporated into the record as (Appellant's Exhibit 1).

Findings of Fact

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

1) You testified that you expect to file your 2016 taxes with a tax filing status of single. You will claim one dependent on that tax return.

2) You are seeking insurance for yourself and your child.

3) The application that was submitted on May 20, 2016, which requested financial assistance, listed annual household income of $25,000.00, consisting of income you earn from your employment. You testified that this amount was correct.

4) You testified, and provided documentation, that your monthly income for May, 2016 in gross was $1,706.20 consisting of two paystubs with check dates of May 6, 2016, and May 20, 2016 of $736.62 and $969.58 respectively. (See Appellant's Exhibit 1).

5) Your application states that you will not be taking any deductions on your 2016 tax return.

6) Your application states that you live in New York County.

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 $15,930.00 for a two-person household (80 Fed. Reg. 3236, 3237).

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)).

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

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 $16,020.00 for a two-person household (81 Fed. Reg. 4036).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits 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).

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (N.Y. Soc. Serv. Law § 366(4)(c)).

Legal Analysis

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

The application that was submitted on May 20, 2016 listed an annual household income of $25,000.00, and the eligibility determination relied upon that information.

You are in a two-person household. You expect to file your 2016 income taxes as single and will claim one dependent on that tax return.

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 FPL for the applicable family size. On the date of your application, the relevant FPL was $15,930.00 for a two-person household. Since an annual household income of $25,000.00 is 156.94% 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 July 1, 2016.

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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 for 2016 was $16,020.00 for a two-person household. Since $25,000.00 is 156.05% of the 2016 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the May 21, 2016 eligibility determination notice properly stated that, based on the information you provided, you were eligible for the Essential Plan and not eligible for Medicaid based on your annual income, it is AFFIRMED.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

You submitted proof of your monthly income for May, 2016 consisting of two paystubs with check dates of May 6, 2016, and May 20, 2016 of $736.62 and $969.58 respectively. (See Appellant's Exhibit 1). This left you with a gross income for that month of $1,706.20

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. The monthly income limit for a two-person household is $1,843.00 per month.

Since the record now contains a more accurate representation of what your monthly household income is, your case is RETURNED to NYSOH to redetermine your eligibility for 2016 coverage based on a two-person household, residing in New York County with a monthly household income of $1,706.20 for May, 2016.

Decision

The May 21, 2016 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your eligibility as of May 20, 2016 based on a two-person household, residing in New York County with a monthly household income of $1,706.20.

Effective Date of this Decision: February 14, 2017

How this Decision Affects Your Eligibility

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Your case is being sent back to NYSOH to redetermine your eligibility for May 2016 coverage with Medicaid based on the information you provided during your hearing.

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

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The May 21, 2016 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your eligibility as of May 20, 2016 based on a two-person household, residing in New York County with a monthly household income of $1,706.20.

Your case is being sent back to NYSOH to redetermine your eligibility for May 2016 coverage with Medicaid based on the information you provided during your hearing.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

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