



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

Notice of Decision

Decision Date: January 11, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010280

[REDACTED]

[REDACTED],

On January 4, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 19, 2015 eligibility determination and December 19, 2015 cancellation notices.

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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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:

Was your appeal of NY State of Health's (NYSOH) December 19, 2015 eligibility determination notice and December 19, 2015 cancellation notice timely?

Did NYSOH properly determine that your spouse was eligible for Medicaid, effective January 1, 2016, and not eligible for the Essential Plan?

Procedural History

On December 8, 2015, NYSOH redetermined your family's eligibility for financial assistance with health insurance.

On December 9, 2015, NYSOH issued a notice of eligibility determination, stating that you and your three children were eligible for Medicaid, effective January 1, 2016, and that your spouse was eligible to enroll in the Essential Plan, with no monthly premium, effective January 1, 2016. Your spouse qualified for the Essential Plan because your household income was less than the allowable income limit and she was in the first five years of her qualified immigration status or she was living in the United States under the color of law.

Also on December 9, 2015, NYSOH issued a notice of enrollment confirming your and your three children's enrollment in your Medicaid Managed Care plans, effective January 1, 2016, and your spouse's enrollment in her Essential Plan, effective January 1, 2016.

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On December 18, 2015, NYSOH redetermined your family's eligibility for financial assistance with health insurance.

On December 19, 2015, NYSOH issued an eligibility determination notice stating that you, your spouse, and your three children, were eligible for Medicaid, effective January 1, 2016.

Also on December 19, 2015, NYSOH issued a cancellation notice advising that your spouse's coverage in her Essential Plan had been cancelled and would end, effective January 1, 2016, as she was no longer eligible to enroll in her current health insurance.

On December 19, 2015, NYSOH also issued a notice of enrollment confirming your, your spouse's, and your three children's enrollment in your Medicaid Managed Care plans, effective January 1, 2016.

On December 24, 2015, NYSOH redetermined your family's eligibility for financial assistance with health insurance.

On December 25, 2015, NYSOH issued a notice of eligibility determination stating that you and your three children were eligible for Medicaid, effective January 1, 2016, and that your spouse was eligible to enroll in the Essential Plan, with no monthly premium, effective January 1, 2016. Your spouse qualified for the Essential Plan because your household income was less than the allowable income limit and she was in the first five years of her qualified immigration status or she was living in the United States under the color of law.

Also on December 25, 2015, NYSOH issued a notice of enrollment confirming your and your three children's enrollment in your Medicaid Managed Care plan, effective January 1, 2016.

On February 18, 2016, NYSOH issued a notice of enrollment confirming your and your three children's enrollment in your Medicaid Managed Care plan, effective January 1, 2016, and your spouse's enrollment in her Essential Plan, effective February 1, 2016.

On June 15, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of those eligibility determinations insofar as your spouse was not eligible for coverage under the Essential Plan as of January 1, 2016, as she had been found eligible for Medicaid.

On January 4, 2017, 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.

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Findings of Fact

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

- 1) You testified that you are seeking Essential Plan coverage for your spouse for January 2016, as your spouse has outstanding medical bills for that month.
- 2) You testified that your youngest child may also have outstanding medical bills for January 2016, however, you were not sure.
- 3) The record reflects that your youngest child was enrolled in Medicaid and a Medicaid Managed Care plan for January 2016.
- 4) You testified that your spouse applied for United States citizenship, but currently is a permanent resident.
- 5) You testified that your spouse was granted permanent resident status on April 10, 2012.
- 6) On December 6, 2013, your spouse's I-155 permanent resident card was uploaded to your NYSOH account. This confirms that she has been a permanent resident since April 10, 2012. The permanent resident card indicates that your spouse falls under the IR6 category, which means that she is the spouse of a United States citizen.
- 7) Your application states that you will be filing your 2016 taxes with a filing status of married filing jointly and claiming three dependents on your tax return. Your application also lists household income of \$33,000.00, which you confirmed is correct.
- 8) The record reflects that on February 17, 2016 a complaint was filed ([REDACTED]) regarding your spouse's inability to enroll in the Essential Plan. NYSOH noted at that time, that your family had two active accounts, the recommendation at that time was to mark the second account inactive. However, this was not done until June 15, 2016. Furthermore, this failed to resolve the issue with regard to your spouse's eligibility for the Essential Plan.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR §155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

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 2014 FPL, which is \$27,910.00.00 for a five-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 2015 FPL, which is \$28,410.00.00 for a five-person household (80 Federal Register 3236, 3237).

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 first issue under review is whether your appeal of NYSOH’s December 19, 2015 eligibility determination notice and December 19, 2015 cancellation notice was timely.

The record reflects that you first contacted NYSOH to resolve the issue with regard to your spouse’s enrollment issues with the Essential Plan on February 17, 2016. The record indicates that NYSOH noted the issue should be resolved by marking your second account inactive. The record reflects that you contacted NYSOH with regard to this issue again on June 13, 2016. The record further reflects a determination was made on this complaint by NYSOH on June 15, 2016. On June 15, 2016 you filed a formal appeal with NYSOH in regards to your spouse’s coverage under the Essential Plan for January 2016.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

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As you contacted NYSOH regarding your spouse's eligibility determination within 60 days of the December 19, 2015 eligibility determination and December 19, 2015 disenrollment notice disenrollment notice, and filed a formal appeal within 60 days of the determination on the complaint, your appeal was timely filed.

The second issue under review is whether NYSOH properly determined that you were eligible for Medicaid, effective January 1, 2016, and not eligible to enroll in the Essential Plan.

The application that was submitted on November 17, 2015 listed an annual household income of \$33,000.00 and the eligibility determination relied upon that information.

According to your application, your spouse is in a five-person household. You expect to file your 2016 income taxes as married filing jointly and will claim three 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 for 2014 was \$27,910.00 and for 2015 was \$28,410.00.00 for a five-person household. Since an annual income of \$33,000.00 is 118.24% of the 2014 FPL and 116.16% of the 2015 FPL, your spouse meets the financial eligibility criteria for both the Essential Plan and Medicaid.

However, you submitted documentation that your spouse is a permanent resident, and has had permanent resident status since April 10, 2012. 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 permanent residency, must now receive coverage through the Essential Plan. Therefore, because your spouse is in the first five years of her permanent residency, NYSOH improperly determined that your spouse meets the non-financial requirements for Medicaid.

Since your spouse does not meet the non-financial requirements for Medicaid, NYSOH improperly determined your spouse to be eligible for Medicaid.

Therefore, the December 19, 2015 eligibility determination notice finding your spouse eligible for Medicaid, effective January 1, 2016, and the December 19,

2015 cancellation notice, terminating your spouse's coverage with her Essential Plan, effective January 1, 2016 are RESCINDED.

The case is RETURNED to NYSOH to ensure that your spouse is enrolled in her Essential Plan, effective January 1, 2016.

During the hearing, you testified that you were not sure if your youngest child had coverage in January of 2016 and you believe that you may have outstanding bills for your youngest child for treatment in January 2016. The record reflects that your youngest child was eligible for Medicaid and enrolled in a Medicaid Managed Care plan for January 2016. Therefore, the case is RETURNED to NYSOH to ensure that your youngest child was enrolled in his Medicaid Managed Care plan for January 2016, consistent with the eligibility determinations and enrollment confirmations.

Decision

The December 19, 2015 eligibility determination notice is RESCINDED.

The December 19, 2015 cancellation notice is RESCINDED.

The case is RETURNED to NYSOH to ensure that your spouse is enrolled in her Essential Plan, effective January 1, 2016.

The case is RETURNED to NYSOH to ensure that your youngest child is enrolled in his Medicaid Managed Care plan for January 2016.

Effective Date of this Decision: January 11, 2017

How this Decision Affects Your Eligibility

Your spouse is eligible for the Essential Plan, as of January 1, 2016.

The case is being sent back to NYSOH to reinstate your spouse's coverage her Essential Plan as of January 1, 2016.

The case is being sent back to NYSOH to make sure your youngest child is enrolled in his Medicaid Managed Care plan for January 2016.

If You Disagree with this Decision (Appeal Rights)

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).

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 December 19, 2015 eligibility determination notice is RESCINDED.

The December 19, 2015 cancellation notice is RESCINDED.

Your spouse is eligible for the Essential Plan, as of January 1, 2016.

The case is being sent back to NYSOH to reinstate your spouse's coverage her Essential Plan as of January 1, 2016.

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The case is being sent back to NYSOH to make sure your youngest child is enrolled in his Medicaid Managed Care plan for January 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

