



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

Notice of Decision

Decision Date: February 1, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010368

[REDACTED]

Dear [REDACTED],

On January 4, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 12, 2016 eligibility determination notice and May 12, 2016 enrollment confirmation 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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Decision

Decision Date: February 1, 2017

NY State of Health Account ID: [REDACTED]
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Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that your spouse's enrollment in an Essential Plan was effective May 1, 2016?

Procedural History

On May 12, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your household's May 11, 2016 application, stating that your spouse was eligible to enroll in the Essential Plan, effective May 1, 2016.

Also on May 12, 2016, NYSOH issued a notice of enrollment, based on your plan selection on May 1, 2016, stating that your spouse was enrolled in an Essential Plan, and that your spouse's plan would start May 1, 2016.

On June 20, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your spouse's enrollment in the Essential Plan insofar as it did not begin February 1, 2016 or, in the alternative, that your spouse was not found eligible for Medicaid from February 1, 2016 to April 30, 2016.

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 left open for 21 days to allow you time to submit income documentation. On January 19, 2017, the Appeals Unit received, via fax, a letter from your former employer regarding your income and a letter from your spouse regarding her income.

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These documents were collectively marked as Appellant's Exhibit #1 and incorporated into the record. The record is now closed.

Findings of Fact

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

- 1) You submitted an application to NYSOH for financial assistance for your spouse on May 11, 2016. On that application you indicated that your spouse was seeking help paying for medical bills for the last 3 months.
- 2) You testified, and the record reflects, that you enrolled your spouse in an Essential Plan on May 11, 2016.
- 3) You testified that you are seeking to either have your spouse's Essential Plan begin on February 1, 2016 or to have your spouse enrolled in Medicaid from February 1, 2016 to April 30, 2016.
- 4) You testified that your spouse has outstanding medical bills for the three months prior to her Essential Plan becoming effective.
- 5) You testified that you expect to file your 2016 federal income tax return as married filing jointly, and will claim no dependents on that return.
- 6) You testified that your annual expected income for 2016 is \$15,600.00, which consisted solely of wages earned from employment. You testified that your spouse had no income in 2016.
- 7) You testified that in February 2016, March 2016, and April 2016 you were employed working for [REDACTED], and that you earned \$300.00 per week gross. You testified that you were paid each week on Fridays.
- 8) You submitted a letter from [REDACTED] dated January 15, 2017 stating that you were employed at [REDACTED] from November 1, 2015 until May 29, 2016 and that you were paid a gross salary of \$300.00 every week.
- 9) You submitted a signed letter from your spouse dated January 18, 2017 stating that she was not employed in 2015 or 2016 and therefore, she could not submit any documentation of her income.
- 10) The application you submitted on May 11, 2016 indicates that your spouse is an immigrant non-citizen and holds an I-551 permanent resident card.

11) You testified that your wife entered the United States approximately 1.5 years ago and has held the same status since her entry.

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

Applicable Law and Regulations

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see also 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Medicaid for Adults between the Ages of 19 and 65

Medicaid through NYSOH can be provided 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 federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 435.603(d)(4); N.Y. Soc. Serv. 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 \$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).

Retroactive Medicaid

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied (42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

Legal Analysis

The issue is whether NYSOH properly determined that your spouse's enrollment in the Essential Plan was effective May 1, 2016.

You testified, and the record indicates, that you submitted your household's NYSOH application on May 11, 2016. As a result, your spouse was found eligible for the Essential Plan as of May 1, 2016 and enrolled into a plan that day.

The date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

On May 11, 2016, you selected an Essential Plan for your spouse, so your enrollment should have taken effect on the first day of the first month following May; that is, on June 1, 2016.

However, NYSOH's May 12, 2016 eligibility determination notice found your spouse eligible to enroll in the Essential Plan, effective May 1, 2016. NYSOH's May 12, 2016 enrollment confirmation notice also noted an enrollment start date of May 1, 2016.

As NYSOH has elected to begin your spouse's enrollment in her Essential Plan earlier than is required, the May 12, 2016 eligibility determination notice and May 12, 2016 enrollment confirmation notice are **AFFIRMED**.

On the application submitted on May 11, 2016, you requested that your spouse's eligibility for retroactive Medicaid for the months of February 2016, March 2016, and April 2016 be determined.

To date, NYSOH has issued no determination with regard to your spouse's eligibility for retroactive Medicaid for the months of February 2016, March 2016, and April 2016, pending income documentation for those months.

During the hearing you testified regarding your and your spouse's income for the months of February 2016, March 2016, and April 2016. You also submitted income documentation in support of your request for your spouse to be found eligible for retroactive Medicaid for the months of February 2016, March 2016, and April 2016.

Since the record now contains a more accurate representation of what your household income was for the months of February 2016, March 2016, and April 2016, your case is RETURNED to NYSOH to consider your spouse's request for retroactive Medicaid coverage for February 2016, March 2016, and April 2016 based on a household size of two people and household income of \$1,200.00 for the month of February 2016, \$1,200.00 for the month of March 2016, and \$1,500.00 for the month of April 2016.

Decision

The May 12, 2016 eligibility determination notice is AFFIRMED.

The May 12, 2016 enrollment confirmation notice is AFFIRMED.

Your case is RETURNED to NYSOH to consider your spouse's request for retroactive Medicaid coverage for February 2016, March 2016, and April 2016 based on a household size of two people and household income of \$1,200.00 for the month of February 2016, \$1,200.00 for the month of March 2016, and \$1,500.00 for the month of April 2016.

Effective Date of this Decision: February 1, 2017

How this Decision Affects Your Eligibility

This decision does not change your spouse's eligibility.

The effective date of your spouse's Essential Health Plan is May 1, 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).

This is not a final determination of your eligibility. Your case is sent back to NYSOH to redetermine your spouse's eligibility based on the evidence you presented at the 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 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 May 12, 2016 eligibility determination notice is **AFFIRMED**.

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This decision does not change your spouse's eligibility.

The May 12, 2016 enrollment confirmation notice is AFFIRMED.

The effective date of your spouse's Essential Health Plan is May 1, 2016.

Your case is RETURNED to NYSOH to consider your spouse's request for retroactive Medicaid coverage for February 2016, March 2016, and April 2016 based on a household size of two people and household income of \$1,200.00 for the month of February 2016, \$1,200.00 for the month of March 2016, and \$1,500.00 for the month of April 2016.

This is not a final determination of your eligibility. Your case is sent back to NYSOH to redetermine your spouse's eligibility based on the evidence you presented at the hearing.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

