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: AP000000010431

On December 16, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's June 17, 2016 eligibility determination.

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 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: January 11, 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 (NYSOH) properly determine that you were eligible to purchase a qualified health plan at full cost, effective August 1, 2016?
>
> Did NYSOH properly determine that you were not eligible for Medicaid?

Procedural History

On June 25, 2015, NYSOH issued an eligibility determination notice based on the information contained in the June 24, 2015 application for financial assistance. That notice stated that you were eligible for Medicaid because your household income of $11,000.00 was below the allowable income limit of $16,243.00. The notice indicated that your eligibility was effective July 1, 2015

On May 3, 2016, NYSOH issued a notice stating that it was time to renew your NYSOH coverage for the 2016 coverage year. The notice stated that, based on information obtained from State and Federal data sources, you no longer qualify for health coverage under Medicaid, the Essential Plan, or for tax credits or cost sharing reductions to help you pay for health coverage. The notice further stated that you now qualified to buy a health plan at full cost through NYSOH. This eligibility was effective as of July 1, 2016.

On May 20, 2016, NYSOH issued a notice of disenrollment stating that your Medicaid fee-for-service coverage was terminated as of June 30, 2016.

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On June 17, 2016, NYSOH issued an eligibility redetermination notice based on the information contained in the last June 16, 2016 application for financial assistance. The notice stated that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective August 1, 2016. The notice also stated that you were not eligible for Medicaid because the household income you provided of $23.000.00 was over the allowable income limit of $16,395.00. Additionally, the notice indicated that you were not eligible to receive advance premium tax credits (APTC) because you were already enrolled in or eligible for minimum value employer sponsored insurance and you were not eligible for cost-sharing reductions because you were not eligible for APTC.

On June 22, 2016, you contacted NYSOH's Account Review Unit and appealed that determination insofar as you were not eligible for an increased amount of financial assistance.

On December 16, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was left open until the close of business on January 6, 2016 for you to submit proof of income received in the month of June 2016. The NYSOH appeals unit received no such documentation and the record closed thereafter.

Findings of Fact

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

1) You testified that you intend to file your 2016 tax return with a tax filing status of single and claim no dependents.

2) You are seeking insurance for yourself.

3) Your application was updated on June 16, 2016 four times with different income amounts ranging from $16,000.00 to $29,000.00. You testified that the income amount of $29,000.00, submitted on the final June 16, 2016 application update, was correct. You testified that this amount consisted of a base salary you receive from your employer.

4) NYSOH based its June 17, 2016 eligibility determination on your attested income of $29,000.00 from the final application update submitted on June 16, 2016.

5) The June 17, 2016 application indicated that you expect to take a $6,000 tuition and fees deduction on your 2016 tax return, reducing your income amount to $23,000.00. You testified that you are not sure of the amount of the deduction you will take.

6) You testified that you are paid bi-weekly and your check amount can vary depending on the amount of hours you work.

7) You testified that you often work overtime and, as a result, your actual income is higher than your base salary.

8) The record was left open for you to submit proof of the amount of income you receive in June 2016. No such documentation was received.

9) You testified that you have been enrolled in health insurance through your employer since January 2015 and that you just renewed your coverage for the 2017 coverage year.

10) You testified that your ESI has high co-pays which makes it unaffordable.

11) Your application states that you live in Albany County.

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

Applicable Law and Regulations

Advance Payments of the Premium Tax Credit

An APTC is available to a person who is eligible to enroll in a qualified health plan and

1. expects to have a household income between 138% and 400% of the Federal Poverty Line (FPL),

2. expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan, and

3. is not otherwise eligible for minimum essential coverage except through the individual market (45 CFR § 155.305(f)).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(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), N.Y. Soc. Serv. Law § 369-gg(3), 42 USC § 18051).

Employer-Sponsored Insurance

An employee who may enroll in an employer-sponsored health insurance plan and an individual who may enroll in the plan because of a relationship to the employee are considered eligible for minimum essential coverage as long as the plan "is affordable and provides minimum value" (26 CFR § 1.36B-2(c)(3)(i)).

An eligible employer-sponsored plan is "affordable" if the portion of the annual premium that the employee or related individual must pay for self-only coverage does not exceed the required contribution. The required contribution percentage is 9.66% of the employee's household income for 2016 (26 CFR §1.36B-2(c)(3)(v), 26 CFR §1.36B-2T, IRS Rev. Proc. 2014-62).

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)).

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 $11,880.00 for a one-person household (80 Fed. Reg. 3236, 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).

Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible to purchase a qualified health plan at full cost, effective August 1, 2016.

In the eligibility determination notice issued on June 17, 2016, NYSOH denied an APTC to you because you were eligible for or enrolled in health insurance coverage through your employer.

An employee or a related individual to the employee, who is eligible to enroll in an employer-sponsored health insurance (ESI) plan that is affordable and provides minimum value, is not eligible for advance premium tax credits or eligible to enroll in an Essential Health Plan through NYSOH.

During the hearing, you testified that you have been enrolled in an ESI plan since 2015 and that you just renewed your coverage for the 2017 coverage year. However, you testified that the insurance through your employer is unaffordable to you because it carries very high co-pays. ESI coverage is considered to be affordable if the premium costs no more than 9.66% of the household income.

There is no evidence in the record to establish that your ESI is unaffordable. While you allege that your ESI carries high co-pays, there is no evidence that your contributions to the premium payments exceeds 9.66% of your annual household income. In accordance with the above cited authority, the cost of the ESI plan, i.e. your portion of the premium payments, determines whether the ESI is considered affordable, not the amount of co-pays the plan requires.

Since you have health insurance coverage through your employer and there is no evidence that it is “unaffordable” under the regulations or that the coverage does not provide you minimum value, the June 17, 2016 eligibility determination, to the extent it found you eligible to purchase a qualified health plan at full cost, effective August 1, 2016, was correct and is AFFIRMED.

The second issue is whether NYSOH properly determined that you were not eligible for Medicaid.

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 (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 $11,880.00 for a one-person household.

The final June 16, 2016 updated application stated that your expected annual income was $23,000.00; that is $29,000.00 minus a $6,000.00 tuition and fees deduction. However, you testified that you often work overtime resulting in a higher amount of income than provided in this application. Notwithstanding, NYSOH relied on the income information provided in that application and it is the basis of the June 17, 2016 eligibility determination.

Utilizing the attested income amount of $23,000.00, you are not eligible for Medicaid on an expected annual income basis because $23,000.00 is 193.60% of the 2016 FPL for a one-person household. Accordingly, you are over the annual income limit to qualify for Medicaid.

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 failed to submit documentation establishing your income for the month of the application at issue, June 2016. Therefore, there is insufficient information in the record to determine your financial eligibility for Medicaid on the basis of your monthly household income.

Therefore, the June 17, 2016 eligibility determination, to the extent it found you ineligible for Medicaid, was correct and is AFFIRMED.

Decision

The June 17, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: January 11, 2017

How this Decision Affects Your Eligibility

You are not eligible for financial assistance through NYSOH.

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 June 17, 2016 eligibility determination notice is AFFIRMED.

You are not eligible for financial assistance through NYSOH.

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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