



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

Notice of Decision

Decision Date: February 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010709



Dear [REDACTED],

On December 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's July 6, 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 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).

This page intentionally left blank.



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

Decision

Decision Date: February 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010709



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 and your family members were eligible to enroll in the Essential Plan effective August 1, 2016?

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

Did NY State of Health properly determine that you were not eligible for Medicaid?

Procedural History

On June 29, 2016, NY State of Health (NYSOH) received your application for financial assistance for your family.

On June 30, 2016, NYSOH issued an eligibility determination based on the June 29, 2016 application, stating that you and your family members were eligible to enroll in the Essential Plan, effective August 1, 2016.

Also on June 30, 2016, NYSOH issued a notice of enrollment, based on your plan selection on June 29, 2016, stating that you and your family members were enrolled in an Essential Plan, and that your plan would start August 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).

On July 5, 2016, NYSOH received two updated applications for financial assistance for your family.

On July 6, 2016, NYSOH issued an eligibility determination based on the last July 5, 2016 application, stating that you and your family members were eligible to enroll in the Essential Plan, effective August 1, 2016.

Also on July 6, 2016, you contacted NYSOH Account Review Unit and requested an appeal of that eligibility determination insofar as the start date for your and your family's Essential Plan was August 1, 2016 and not June 1, 2016.

On July 7, 2016, NYSOH issued a notice of enrollment, based on your plan selection on July 6, 2016, stating that you and your family members were enrolled in Essential Plan 1 Plus Vision and Dental, and that your plan would start August 1, 2016.

On December 21, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open until January 4, 2017 for you to submit pay stubs for the months of June 2016 and July 2016. Since no submissions were received by January 4, 2017, the record was closed at that time.

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 married filing jointly. According to your NYSOH account, you will claim your adult child as a dependent on that tax return.
- 2) You are seeking insurance for yourself, your spouse, and your one adult child.
- 3) The application that was submitted on July 5, 2016, which requested financial assistance, listed annual household income of \$36,000.00, consisting of \$3,000.00 per month salary you earn from your employment in auto sales. You testified that this amount was correct. You testified that you get about \$2,500.00 a month after taxes.
- 4) Your application states that you will not be taking any deductions on your 2016 tax return.
- 5) Your application states that you live in Queens County, New York.

- 6) You testified that you and your family did not have health insurance prior to your June 29, 2016 application.
- 7) You testified that you had a sudden serious illness on June 25, 2016 and were hospitalized.
- 8) You testified that you submitted your application for health insurance while you were hospitalized with the assistance of a certified application counselor.
- 9) According to your NYSOH account, on June 29, 2016, you submitted a pay stub for period of 05/01/16 to 05/31/16 dated 05/31/16 showing salary of \$3,000.00 and a year-to-date salary of \$15,000.00. You confirm that this was accurate.
- 10) According to your NYSOH account, on the June 29, 2016 and July 5, 2016 applications for financial assistance, you stated that your average monthly income was the same as the income in the current month.
- 11) According to your NYSOH account, on the June 29, 2016 and the July 5, 2016 applications for financial assistance, you did not request help paying for medical bills from the last 3 months.
- 12) According to your NYSOH account, you selected an Essential Plan on July 6, 2016. NYSOH confirmed your and your family's enrollment with that Essential Plan effective August 1, 2016.
- 13) You testified that you need to have your Essential Plan begin June 1, 2016 so your hospitalization can be covered by health insurance. Additionally, you asked to be reviewed for Medicaid eligibility.

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

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).

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 \$20,090.00 for a three-person household (80 Fed. Reg. 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>).

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)).

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

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

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).

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 \$20,160.00 for a three-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).

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 first issue under review is whether NYSOH properly determined that you and your family were eligible for the Essential Plan, effective August 1, 2016.

The application that was submitted on July 5, 2016 listed an annual household income of \$36,000.00 and the eligibility determination relied upon that information.

You are in a three-person household for purposes of this analysis. This is because you expect to file your 2016 income taxes as married filing jointly 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 \$20,090.00 for a three-person household. Since an annual household income of \$36,000.00 is 179.19% of the 2016 FPL, NYSOH properly found you, your spouse, and your one adult child to be eligible for the Essential Plan.

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).

Therefore, the July 6, 2016, eligibility determination properly stated that, based on the information you provided, you and your family were eligible for the Essential Plan and it is AFFIRMED.

The second issue is whether NYSOH properly determine that your and your family's enrollment in an Essential Plan was effective August 1, 2016.

You testified, and the record indicates, that you updated your NYSOH application on July 5, 2016. As a result, you and your family were found eligible for the Essential Plan as of August 1, 2016. You enrolled your family into a plan on July 6, 2016.

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 July 6, 2016, you selected an Essential Plan, so your enrollment properly took effect on the first day of the first month following July 2016; that is, on August 1, 2016.

Therefore, the July 7, 2016 enrollment confirmation notice stating that your and your family's enrollment in the Essential Plan was effective August 1, 2016, is correct and must be AFFIRMED.

The third issue is whether NYSOH properly determined that you and your family 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 that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$20,160.00 for a three-person household. Since \$36,000.00 is 178.57% of the 2016 FPL, NYSOH properly found you and your family to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

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 pay stubs that show you earn \$3,000.00 per month in salary from your job as an auto salesperson. You testified that this monthly salary was correct.

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, which is \$2,319.00 per month for a three-person household. Since the documentation you provided shows that your gross monthly salary was \$3,000.00, which is in excess of the maximum allowable monthly income limit of \$2,319.00, neither you nor any family members qualify for Medicaid on the basis of monthly income as of the date of your applications.

You testified that you incurred medical expenses in June 2016 and July 2016 and need help paying medical bills. An individual may be considered for retroactive Medicaid during the three months before August 1, 2016, if he or she received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he or she received the services had they applied. Since you did not submit proof of income for the months of June 2016 and July 2016, as directed by the Hearing Officer, no further action is required by NYSOH as to whether you could be considered for retroactive Medicaid during those two months.

Decision

The July 6, 2016 eligibility determination notice is AFFIRMED.

The July 7, 2016 enrollment confirmation notice is AFFIRMED.

No further action is required by NYSOH as to whether you could be considered for retroactive Medicaid during the months of June 2016 or July 2016.

Effective Date of this Decision: February 10, 2017

How this Decision Affects Your Eligibility

You and your family remain eligible for the Essential Plan.

Your and your family's enrollment in the Essential Plan was effective August 1, 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 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

The July 6, 2016 eligibility determination notice is AFFIRMED.

The July 7, 2016 enrollment confirmation notice is AFFIRMED.

No further action is required by NYSOH as to whether you could be considered for retroactive Medicaid during the months of June 2016 or July 2016.

You and your family remain eligible for the Essential Plan.

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).

Your and your family's enrollment in the Essential Plan was effective August 1, 2016.

Legal Authority

We are sending you this notice in accordance with 45 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).

A Copy of this Decision Has Been Provided To:

