



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

## Notice of Decision

Decision Date: February 9, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010777

[REDACTED]

Dear [REDACTED],

On December 22, 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 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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## Decision

Decision Date: February 9, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010777

[REDACTED]

## Issue

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

Did NY State of Health properly redetermine that you were eligible for the Essential Plan as of August 1, 2016, and no longer eligible for Medicaid through NYSOH as of July 31, 2016?

## Procedural History

On June 16, 2016, NY State of Health (NYSOH) issued a notice stating that it was time to renew your health insurance for 2016. The notice also stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account between June 16, 2016 and July 15, 2016 or you might lose the financial assistance you were currently receiving.

On July 5, 2016, NYSOH received your updated application for health insurance.

On July 6, 2016, NYSOH issued an eligibility determination notice based on the information contained in the July 5, 2016 application, stating that you were eligible for the Essential Plan with a premium of \$20.00 per month, effective August 1, 2016.

Also on July 6, 2016, NYSOH issued an enrollment confirmation notice, based on your July 5, 2016 plan selection, stating that you were enrolled in the Essential Plan with a premium of \$20.00 per month, effective August 1, 2016.

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Also on July 6, 2016, NYSOH issued a disenrollment notice stating that your coverage in your Medicaid Managed Care (MMC) plan would end effective July 31, 2016.

On July 11, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination as it related to your eligibility for financial assistance.

On December 22, 2016, 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.

## **Findings of Fact**

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

- 1) According to your NYSOH account and your testimony, you expect to file your 2016 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 2) You are seeking Medicaid for yourself.
- 3) The application that was submitted on July 5, 2016 listed annual household income of \$19,740.00, consisting solely of your Social Security benefits. You testified that this amount was correct.
- 4) You testified that your monthly income for July 2016 was \$1,652.00 and that it never changes.
- 5) According to your NYSOH account and your testimony, you will not be taking any deductions on your 2016 tax return.
- 6) You testified that you are disabled, but you are not yet eligible for Medicare Part A or Part B because you have only been disabled for about one year.
- 7) According to your NYSOH account, prior to being found ineligible for Medicaid through NYSOH, you were enrolled in an MMC plan.
- 8) According to your NYSOH account, you requested and were granted Aid to Continue during the appeal process. You were reinstated into your MMC plan as of August 1, 2016, pending the outcome of your appeal.

- 9) You testified that you have a serious illness that requires expensive medications and that you only have \$200.00 per month to live on after you pay your household expenses.
- 10) You testified that you were advised at the hospital that if you were denied Medicaid coverage after the hearing to apply at your local Department of Social Services.
- 11) According to your NYSOH account and your testimony, you live in Queens County, New York.

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

## **Applicable Law and Regulations**

### Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every twelve months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual’s account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR § 155.335(h)).

### 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

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§ 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 \$11,770.00 for a one-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)).

### 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 (81 Federal Register 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 issue under review is whether NYSOH properly redetermined that you were eligible for the Essential Plan as of August 1, 2016, and no longer eligible for Medicaid through NYSOH as of July 31, 2016.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. Your coverage in your MMC plan from the policy period was due to end when NYSOH issued the June 16, 2016 renewal notice stating that there was not enough information to determine whether you were eligible to continue your financial assistance for health insurance, and that you needed to supply additional information between June 16, 2015 and July 15, 2016, or your financial assistance might end.

The application that was submitted on July 5, 2016 listed annual household income of \$19,740.00, consisting of \$19,740.00 you earn from your Social Security benefits and this information was relied upon by NYSOH when it redetermined your eligibility for financial assistance in the upcoming policy period.

According to your NYSOH account, you are single and have no dependents. Therefore, you are in a one-person household for purposes of this analysis.

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. The applicable FPL at the time of your July 5, 2015 application was \$11,770.00 for a one-person household. Since a household income of \$19,740.00 is 167.71% of the applicable FPL for a one-person household, NYSOH properly found you to be eligible for the Essential Plan, using the information provided in your application.

However, you expressly requested in your appeal that you wanted to be reconsidered 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. Since \$19,740.00 is 166.16% 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.

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 testified that your only source of income is Social Security benefits of \$1,652.00 per month and never changes.

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 \$1,367.00 per month. There is nothing in the record to suggest you do not meet the non-financial criteria, so the analysis turns to the financial criteria. Since your monthly income of \$1,652.00 is greater than the maximum monthly income limit of \$1,367.00 for a one-person household, you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

Therefore, the July 6, 2016 eligibility determination properly stated that, based on the information you provided on your July 5, 2016 application, you were eligible for the Essential Plan, effective August 1, 2016, and is AFFIRMED.

## **Decision**

The July 6, 2016 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** February 9, 2017

## **How this Decision Affects Your Eligibility**

This decision does not affect your eligibility.

You were eligible for the Essential Plan as of August 1, 2016.

You were no longer eligible for Medicaid after July 31, 2016, because your monthly and annual income was above the respective maximum allowable income limits for a one-person household.

Your case is being returned to NYSOH to assist you in selecting and enrolling in an Essential Plan as soon as is feasible.

## **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 July 6, 2016 eligibility determination is **AFFIRMED**.

This decision does not affect your eligibility.

You were eligible for the Essential Plan as of August 1, 2016.

You were no longer eligible for Medicaid after July 31, 2016, because your monthly and annual income was above the respective maximum allowable income limits for a one-person household.

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Your case is being returned to NYSOH to assist you in selecting and enrolling in an Essential Plan as soon as is feasible.

### **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**

