



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

Notice of Decision

Decision Date: January 19, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010858

[REDACTED]

On January 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 21, 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 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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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 enroll in the Essential Plan, effective August 1, 2016?

Did NYSOH properly determine that you were not eligible for Medicaid through NYSOH, as of August 1, 2016?

Procedural History

On June 25, 2015, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid, effective August 1, 2015. You were subsequently enrolled into a Medicaid Managed Care (MMC) plan.

On June 3, 2016, NYSOH issued a notice that it was time to renew your health insurance. That notice 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 by July 15, 2016, or you might lose the financial assistance you were currently receiving.

On June 20, 2016, NYSOH received your updated application for financial assistance.

On June 21, 2016, NYSOH issued an eligibility determination based on the June 20, 2016 application, stating that you were eligible to enroll in the Essential Plan

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with no monthly premium, effective August 1, 2016. It further stated that you no longer qualified for Medicaid as of July 31, 2016. The notice also stated that NYSOH would send your information to your local Department of Social Services to determine your eligibility for Medicaid on a different basis, and that your Medicaid coverage would continue until a decision was made. This was because you indicated in your application that you were disabled, blind, or chronically ill, and in need of waiver services, home care, or personal care services.

Also on June 21, 2016, NYSOH issued a notice of disenrollment stating that your coverage in your MMC plan would end effective July 31, 2016.

That same day, NYSOH issued an enrollment confirmation notice stating that you were enrolled in an Essential Plan 2, with an enrollment start date of August 1, 2016.

On July 14, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the June 21, 2016 eligibility determination, insofar as you were not eligible for Medicaid. You also requested "Aid to Continue" so that your Medicaid and MMC plan coverage would continue pending the outcome of your appeal.

On July 29, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid for a limited time. This was because you had been granted Aid to Continue until such time as a decision is made on your appeal.

Also on July 29, 2016, NYSOH issued a disenrollment notice, stating that your enrollment in your Essential Plan 2 would end effective August 1, 2016, and an enrollment confirmation notice, stating that you were enrolled in your Healthfirst MMC plan, effective September 1, 2016.

On January 6, 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.

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 single. You will claim no dependents on that tax return.
- 2) The application that was submitted on June 20, 2016, which requested financial assistance, listed annual household income of \$16,524.00, consisting entirely of Social Security Disability (SSD) benefits. You testified that this amount was correct.

- 3) You testified that your monthly benefit has decreased by approximately \$125.00 since November 1, 2016. This is because you are now receiving Medicare, and the \$125.00 is a premium payment that comes out of your monthly SSD check.
- 4) Your NYSOH account indicates that your monthly income for August 2016 was \$1,377.00, and you testified that this was accurate.
- 5) Your June 20, 2016 application indicates that you are certified disabled, and that you are seeking assistance with personal care/home care services. You testified that this is correct.
- 6) You testified that, after you found out that you were eligible for the Essential Plan, you made several calls to NYSOH and received many confusing notices.
- 7) You testified that a supervisor from NYSOH advised you that your application would have to be sent to the Human Resources Administration (HRA) for a different Medicaid eligibility determination because you receive long term care service.
- 8) Your NYSOH account reflects that your application was updated on November 8, 2016 to show that you were no longer applying for health insurance through NYSOH.
- 9) On November 9, 2016, NYSOH sent you a notice stating that you were no longer eligible for coverage through NYSOH because you requested certain Medicaid services that are not available through NYSOH, and only available through your local DSS (HRA in your case). The notice further stated that Medicaid coverage would continue through your local DSS (HRA).
- 10) You testified that you began receiving Medicaid through HRA as of December 1, 2016.
- 11) Your application states that you live in Queens County.

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 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 \$11,770.00 for a one-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

An individual is eligible for enrollment in Medicaid through NYSOH when he or she meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard (45 CFR § 155.305(c); NY Social Services Law § 366(1)(b)).

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 Fed. Reg. 4036).

In general, to qualify for MAGI-based Medicaid through NYSOH, you must also be one of the following:

- An adult aged 19-64 who is not eligible for Medicare Part A or Part B,
- A pregnant woman or infant,
- A child aged 1-18, or
- A parent or caretaker relative

(45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

If an individual does not fall into one of these categories, he or she may still be eligible for non-MAGI-based Medicaid coverage through their Local DSS or the New York City HRA (see N.Y. Soc. Serv. Law § 366(1)(c)).

NYSOH is required to refer an individual who is not eligible for MAGI-based Medicaid because they are in receipt of Medicare, certified disabled, or over the age of 65 to the Local DSS or HRA. During the referral process, an individual's Medicaid eligibility, including their enrollment in a Medicaid Managed Care plan or receipt of Premium Payment Assistance, continues until such a time as their eligibility can be redetermined on a non-MAGI Medicaid basis (see *generally* 42 CFR § 435.1200, 42 CFR § 435.930, 14 OHIP/LCM-2 effective as of December 1, 2014, GIS 16 MA/04 effective as of January 1, 2016).

Legal Analysis

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

The application that was submitted on June 20, 2016 listed an annual household income of \$16,524.00, and the eligibility determination relied upon that information.

You are in a one-person household. You expect to file your 2016 income taxes as single, and will claim no dependents on that tax return.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household 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 \$11,770.00 for a one-person household. Since an annual household income of \$16,524.00 is 140.39% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan.

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The second issue under review is whether NYSOH properly determined that you were not eligible to receive Medicaid through NYSOH.

Medicaid through NYSOH (MAGI-based Medicaid) is available to individuals who meet the income requirements, and who are: between the ages of 19 and 64; not eligible for Medicare Parts A or B; pregnant women or infants; children between the ages of 1 and 18; or parent or caretaker relatives.

To be financially eligible for Medicaid through NYSOH, you would have needed an adjusted gross income at or below 138% of the FPL for your household size. The FPL for a household of one for 2016 was \$11,880.00. An income of \$16,524.00 is 139.09% of the 2016 FPL. Therefore, you were not financially eligible for Medicaid as of your June 20, 2016 Medicaid application.

However, the record reflects that, at the time NYSOH issued the June 21, 2016 eligibility determination, you were receiving SSD benefits and were certified disabled. Your application also indicated that you needed personal or home care services.

Individuals who are no longer eligible for MAGI-based Medicaid but are certified disabled may qualify for Medicaid under non-MAGI standards. NYSOH is required to refer these individuals to their local DSS or to HRA for redetermination of their Medicaid eligibility.

Once a case is referred, NYSOH and HRA must ensure that an individual's Medicaid is maintained throughout the redetermination process to prevent any gaps in coverage. This includes maintaining an individual's coverage through their MMC plan, or their receipt of Medicaid Premium Assistance payments.

The record reflects that NYSOH referred your case to HRA, as required by law. However, NYSOH discontinued your MMC coverage immediately, and it was only reinstated because you requested Aid to Continue, not because your Medicaid application was pending with HRA.

Therefore, your case is RETURNED to NYSOH to coordinate with HRA to ensure that there were no gaps in your Medicaid and MMC coverage between August 1, 2016 and the start date of your HRA Medicaid case.

Decision

The June 21, 2016 eligibility determination is AFFIRMED.

Your case is RETURNED to NYSOH to coordinate with HRA to ensure that there were no gaps in your Medicaid and MMC coverage between August 1, 2016 and the date when your Medicaid and MMC became active through HRA.

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).

Effective Date of this Decision: January 19, 2017

How this Decision Affects Your Eligibility

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

You were no longer eligible for Medicaid through NYSOH as of August 1, 2016.

Your case is being sent back to NYSOH to coordinate with HRA to ensure that there were no gaps in your Medicaid and MMC coverage between August 1, 2016 and the date when your Medicaid and MMC became active through HRA.

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 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

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- By mail at:
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- By fax: 1-855-900-5557

Summary

The June 21, 2016 eligibility determination is AFFIRMED.

Your case is RETURNED to NYSOH to coordinate with HRA to ensure that there were no gaps in your Medicaid and MMC coverage between August 1, 2016 and the date when your Medicaid and MMC became active through HRA.

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

You were no longer eligible for Medicaid through NYSOH as of August 1, 2016.

Your case is being sent back to NYSOH to coordinate with HRA to ensure that there were no gaps in your Medicaid and MMC coverage between August 1, 2016 and the date when your Medicaid and MMC became active through HRA.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

