



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

Notice of Decision

Decision Date: January 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011021

[REDACTED]

[REDACTED]

On December 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's July 20, 2016 eligibility determination 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).

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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 September 1, 2016?

Did NY State of Health properly determine that you were not eligible for Medicaid as of your July 19, 2016 application?

Procedural History

On July 11, 2016, NYSOH received an update to your application for health insurance.

On July 12, 2016, NYSOH issued a notice stating that you may be eligible for health insurance through NYSOH; however, more information was needed to confirm the information contained in your application was accurate. You were requested to provide income documentation by July 26, 2016 so that an appropriate eligibility determination could be made.

On July 13, 2016, NYSOH received a further update to your application for health insurance.

Also on July 13, 2016, NYSOH received four earning statements issued to you by [REDACTED] between June 16, 2016 and July 7, 2016.

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On July 14, 2016, NYSOH issued a notice stating that you may be eligible for health insurance through NYSOH; however, more information was needed to confirm the information contained in your application was accurate. You were again requested to provide income documentation by July 26, 2016 so that an appropriate eligibility determination could be made.

On July 19, 2016, NYSOH reran your eligibility based on information contained in your account as of July 19, 2016.

On July 20, 2016, NYSOH issued an eligibility determination notice based on the July 19, 2016 rerun of application, stating that you are eligible to enroll in the Essential Plan, effective September 1, 2016.

On July 22, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination notice insofar as you were not eligible for Medicaid.

On July 23, 2016, NYSOH issued an enrollment notice confirming your selection of an Essential Plan on July 22, 2016. The notice stated that your Essential Plan coverage would begin effective September 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 remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: all earning statements issued to you during July 2016. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier. No additional documents were received from you by January 5, 2017.

Accordingly, the record was closed on January 5, 2017.

Findings of Fact

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

- 1) You testified, and your application reflects, 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) You are seeking insurance for yourself only.
- 3) The record reflects that your submitted applications on July 11, 2016 and July 13, 2016. In the first application, you reported weekly earnings of \$226.00. In the second application, you reported anticipated yearly earnings of \$16,000.00. In response to each of these application, you

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were requested to provide additional income documentation to confirm these figures were accurate.

- 4) On July 13, 2016, you provided four earning statements issued to you by [REDACTED] reflecting that you received (1) \$486.25 on June 16, 2016, (2) \$392.50 on June 23, 2016, (3) \$292.50 on June 30, 2015 and (4) \$222.50 on July 7, 2016.
- 5) Your eligibility was rerun on July 19, 2016, which was based on the four earning statements you provided. Your computed weekly earnings were found to be \$348.44.
- 6) You testified that this four week sample of your income was not representative of your typical earnings.
- 7) At the hearing, the Hearing Officer requested that you provide the all earning statements you received during the month of July 2016, aside from the July 7, 2016 earning statement already provided on July 13, 2016. No additional earning statements were received from you before the record closed on January 5, 2017.
- 8) Your application states that you will not be taking any deductions on your 2016 tax return.
- 9) You live in Bronx County, New York.

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).

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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 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 under review is whether NYSOH properly determined that you were eligible for the Essential Plan, effective September 1, 2016.

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Your application was rerun on July 19, 2016 using the information contained in the four earning statements you provides to NYSOH on July 13, 2016. Between June 16, 2016 and July 7, 2016, the record reflected that you received an average weekly income of \$348.44. 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 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 \$11,770.00 for a one-person household. Since an annual household income of \$18,118.88 (\$348.44 x 52 weeks) is 153.94% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan.

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 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 \$18,118.88 is 152.52% 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.

The record reflects that you did not provide all earning statements to NYSOH Appeals Unit that you received during the month of July 2016 prior to the record closing on January 5, 2017, as directed by the Hearing Officer.

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 \$1,366.00 per month. Since, you did not provide any of the earning statements you received during July 2016, other than the July 7, 2016 earning statement, we are unable to review your eligibility for Medicaid on a monthly income basis.

Since the July 20, 2016 eligibility determination notice properly stated that, based on the information you provided, you were eligible for the Essential Plan, and ineligible for Medicaid, it was correct and is AFFIRMED.

Decision

The July 20, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: January 10, 2017

How this Decision Affects Your Eligibility

You remain eligible for the Essential Plan effective September 1, 2016.

You are not eligible for advance payments of the premium tax credit, cost-sharing reductions, or Medicaid.

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 July 20, 2016 eligibility determination notice is AFFIRMED.

You remain eligible for the Essential Plan effective September 1, 2016.

You are not eligible for advance payments of the premium tax credit, cost-sharing reductions, or Medicaid.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

