



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

Notice of Decision

Decision Date: February 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Numbers: AP000000011393 and AP000000012760

[REDACTED]

Dear [REDACTED],

On January 3, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 11, 2016 eligibility redetermination notice regarding you and your spouse, and its October 25, 2016 eligibility redetermination and enrollment confirmation notices regarding you.

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 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.

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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 and your spouse were conditionally eligible to purchase a qualified health plan at full cost, effective June 1, 2016?

Did NYSOH properly redetermine that you and your spouse were eligible to share in advance payments the premium tax credit, effective September 1, 2016?

Did NY State of Health (NYSOH) properly determine that you did not qualify for retroactive Medicaid for the period of May 1, 2016 through July 31, 2016?

Did NYSOH properly determine that your eligible for and enrollment in an Essential Plan was effective December 1, 2016?

Procedural History

According to your NYSOH account, effective February 1, 2016, you were determined eligible to enroll in the Essential Plan, without condition, and were enrolled in an Essential Plan 1 through Fidelis Care. The determination was based on you as a single person and an expected 2016 household income of \$18,985.00.

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On May 11, 2016, you updated your application and added your spouse as a household member needing health insurance. The listed household income on that application was \$37,500.00.

On May 12, 2016, NYSOH issued an eligibility redetermination notice that in part stated you were conditionally eligible to purchase a qualified health plan (QHP) at full cost through NYSOH, effective June 1, 2016, and qualified to select a health plan through a special enrollment period. You were instructed to select and confirm your selection by July 10, 2016. The notice further stated that you were not eligible for financial assistance because you were determined to be enrolled in or eligible for a public insurance program such as Medicare. The notice instructed you to submit documentation before June 25, 2016, to prove your Medicare Part A and B terminated.

Also on May 12, 2016, NYSOH issued a disenrollment notice confirming that your Essential Plan 1 coverage would end effective May 31, 2016.

On May 17, 2016, NYSOH issued an enrollment notice that in part stated your health coverage with a QHP would not begin until you picked a plan and action in this regard was required.

On June 16, 2016, NYSOH issued another eligibility redetermination notice that in part stated you do not qualify to select a QHP outside the open enrollment period.

On June 22, 2016, NYSOH issued a notice stating that they had previously notified you that additional information is required to confirm your eligibility for health insurance through NYSOH. They acknowledged that you had since submitted documentation to resolve the inconsistency; however, the documentation appears to be insufficient to resolve the request. You were asked to submit additional information regarding termination of your Medicare Part A and B.

On July 19, 2016, NY State of Health (NYSOH) issued an eligibility redetermination notice stating in part that you were conditionally eligible to purchase a qualified health plan at full cost through NYSOH, effective July 1, 2016. The notice further stated the following:

- (1) You did not qualify to select a health plan outside of the open enrollment period for 2016;
- (2) Your spouse was eligible to enroll in the Essential Plan for a limited time, effective July 1, 2016, and needed to pick a plan.
- (3) You needed to provide proof of termination of your Medicare Part A or Part B by July 30, 2016; and,
- (4) Your spouse needed to provide proof of her immigration status and her Social Security number by September 13, 2016.

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Also on July 19, 2016, NYSOH issued an enrollment notice confirming your spouse's enrollment in an Essential Plan, effective September 1, 2016. The notice also stated that your health coverage with a qualified health plan would not begin until you picked a plan.

On August 3, 2016, NYSOH issued an eligibility redetermination notice, based on your August 1, 2016 updated application, that stated you did not qualify for Medicaid or the Essential Plan, and did not qualify to receive premium tax credits or cost sharing reductions, or to purchase a qualified health plan through NYSOH because state and federal data sources show that you are receiving Medicare. The notice further stated that "[i]ndividuals enrolled in Medicare cannot receive health coverage through NYSOH."

On August 10, 2016, NYSOH prepared a preliminary eligibility redetermination and found you newly eligible to receive advance payments of the premium tax credit (APTC) up to \$459.00 per month and newly eligible to receive cost sharing reductions, effective September 1, 2016.

By that same preliminary redetermination, your spouse was found conditionally eligible to share with you in the monthly APTC amount and cost sharing reductions, effective September 1, 2016.

That same day, you spoke with NYSOH's Account Review Unit and appealed the preliminary eligibility redetermination as it related to both you and your spouse.

On August 11, 2016, NYSOH issued an eligibility redetermination notice that was consistent with its August 10, 2016 preliminary redetermination. The notice also stated that you and your spouse qualify to select a health plan outside of the open enrollment period for 2016 and needed to review your health plan options and confirm your selection no later than October 9, 2016 for you and no later than August 29, 2016 for your spouse. The notice further indicated that you were not eligible for Medicaid because the household income you provided of \$45,431.35 was over the allowable income limit of \$27,821.00 for three-person household.

The notice further acknowledged that you had requested help with paying medical bills for the three-month period prior to your application and they would send you a separate notice telling you if you were eligible for Medicaid for this time period or if additional information was needed. It also directed your spouse to provide documentary proof of her immigration status and her Social Security number by September 13, 2016.

On August 11, 2016, NYSOH issued a separate eligibility determination notice that stated your request for help with paying medical bills for May 1, 2016

through July 31, 2016 was denied because the program you are eligible for cannot pay for any care you received in the past.

On August 16, 2016, NYSOH issued another eligibility redetermination notice, based on your August 15, 2016 updated application, that stated you were eligible for receive APTC up to \$459.00 per month and eligible to receive cost sharing reductions, if you selected a silver-level qualified health plan, both effective September 1, 2016. Your spouse was redetermined conditionally eligible to share with you in the monthly APTC amount and cost sharing reductions, also effective September 1, 2016. You and your spouse qualified for a special enrollment period to select a health plan and confirm your selection by October 14, 2016. Your spouse was also directed to provide proof of her Social Security number by September 13, 2016 and proof of her immigration status by November 13, 2016.

On October 9, 2016, NYSOH issued an eligibility redetermination notice regarding your eligibility, based on your October 2, 2016 updated application and reported household income of \$45,431.35. The notice stated that you are eligible for APTC of up to \$91.00 per month and eligible for cost saving reductions if you select a silver-level qualified health plan, effective November 1, 2016.

On October 24, 2016, NYSOH issued an eligibility redetermination notice regarding your spouse, that stated, effective November 1, 2016, she was no longer eligible for health insurance through NYSOH because she did not provide her Social Security number in the timeframe required.

Also on October 24, 2016, you spoke with NYSOH's Account Review Unit and appealed your spouse's ineligibility for health insurance through NYSOH as stated in the October 24, 2016 notice.

On October 25, 2016, NYSOH issued an eligibility redetermination notice that stated, effective December 1, 2016, you and your spouse were eligible to enroll in the Essential Plan and needed to pick a plan.

On December 6, 2016, NYSOH confirmed in an enrollment notice that you and your spouse were enrolled in the Essential Plan you selected, with an enrollment start date of December 1, 2016.

On January 3, 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:

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- 1) You testified that you are only appealing your eligibility for financial assistance and health insurance coverage through NYSOH.
- 2) Through sworn testimony on the date of your hearing, you withdrew your August 10, 2016 appeal insofar as it related to your spouse's eligibility for financial assistance. You wanted your appeal of your ineligibility for financial assistance to proceed.
- 3) According to your May 11, 2016, May 17, 2016, June 10, 2016, and one of the two August 2, 2016 applications, your household income was listed as \$37,500.00, and your spouse and your adult child were listed on those applications with only you and your spouse needing insurance. Those applications also listed that you and your spouse expected to file your 2016 federal income taxes as married filing jointly and would claim your adult child as a dependent on that return.
- 4) According to the other August 2, 2016 application and the August 8, 2016, August 9, 2016, August 10, 2016, August 15, 2016, and October 2, 2016 applications, your household income was listed as \$45,431.35, consisting of your earnings of \$37,500.00 from your employment and your adult child's earnings from his employment of \$7,931.35. Those applications also listed that you and your spouse expected to file your 2016 federal income taxes as married filing jointly and would claim your adult child as a dependent on that return.
- 5) You testified that you provided several times to NYSOH proof that your Medicare Part B ended in 2015.
- 6) You submitted documentation to NYSOH to show your Medicare had ended in 2015 as follows:

Uploaded 12/15/2015: Document [REDACTED] – A copy of a December 1, 2015 letter from the Social Security Administration informing you that your Medicare premium was not paid within the time limit, your last month of Part B coverage was November 2015, and benefits would not be paid for any medical services you receive after your last month of coverage.

Uploaded 12/19/2015: Document [REDACTED] – An image of the same December 1, 2015 letter from the Social Security Administration.

Uploaded 05/13/2016: Document [REDACTED] – A 05/12/2016 facsimile from you with your identifying information and a handwritten note stating that, "I am writing and faxing you documentation to prove I no longer receive Medicare benefits of any kind, which was signed by you

and dated "5/12/16." Pages 2 – 4 were a copy of the same December 1, 2015 letter from the Social Security Administration as noted above.

Uploaded 06/16/2016: Document [REDACTED] – A 06/15/2016 facsimile from you that was a duplicate of your 05/12/2016 facsimile.

Uploaded 07/27/2016: Document [REDACTED] – A 07/25/2016 facsimile consisting of the first 3 pages of NYSOH's May 18, 2016 eligibility redetermination notice and a July 12, 2016 letter from the Social Security Administration stating your Medicare Part B terminated December 2015.

- 7) On June 21, 2016, NYSOH invalidated your 05/12/2016 submission because it referenced a Social Security Administration notice dated 12/01/2015, which was deemed outdated (see Document [REDACTED]).
- 8) On August 2, 2016, NYSOH verified your 12/15/2015 and 12/19/2015 submissions (see Documents [REDACTED] and [REDACTED]).
- 9) On August 2, 2016 and August 10, 2016, NYSOH verified your 07/25/2016 submission (see Document [REDACTED]).
- 10) As of your October 14, 2016 application, you and your spouse still expected to file your 2016 federal tax return as married filing jointly. Your adult child was no longer listed on your application at all and not listed as a dependent. Your household income from last year was listed as \$37,500.00 and projected to be \$31,333.00 for 2016. You testified that this information was correct.
- 11) You are seeking to have your Essential Plan backdated to June 1, 2016, to cover medical expenses you incurred.

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

Applicable Law and Regulations

Timeliness of Appeal

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(1)).

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Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (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 QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2016 is set by federal law at 2.03% to 9.66% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc. 2014-37).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2015 FPL, which is \$20,090.00 for a three-person household (80 Federal Register 3236, 3237).

For annual household income in the range of at least 200% but less than 250% of the 2015 FPL, the expected contribution in 2016 is between 6.41% and 8.18% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on NYSOH application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

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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)).

Medicaid for Adults between the Ages of 19 and 65

Medicaid through NYSOH can be provided 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 federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 435.603(d)(4); N.Y. Soc. Serv. 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)).

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

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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 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)).

Legal Analysis

Telephone Withdrawal

Initially, a Hearing Officer from the Appeals Unit of NY State of Health called you on January 3, 2017 and placed you under oath.

While under oath, you identified yourself and stated that you were no longer interested in pursuing your August 10, 2016 appeal as it related to your spouse.

You therefore withdrew your appeal on the record only as it related to your spouse. Accordingly, we are dismissing your appeal in this regard, pursuant to 45 Code of Federal Regulations (CFR) § 155.530(a)(1).

The effect of this dismissal means the Appeals Unit of NY State of Health will not be reviewing your spouse's eligibility for financial assistance at this time.

If you think your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice.

NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing.

If you do not respond to this notice within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Timeliness of Appeal

Turning to the merits of your appeal, it is noted that you were found eligible for the Essential Plan and enrolled in an Essential Plan effective February 1, 2016, which is not in dispute. Your eligibility for and enrollment in the Essential Plan was based on you being in a one-person household and having an expected 2016 income of \$18,985.00.

Based on your May 11, 2016 updated application, you added your spouse and indicated she needed health insurance. You also changed your expected 2016 income to \$37,500.00. Based on your updated application, NYSOH redetermined you to be conditionally eligible to purchase a QHP at full cost, effective June 1, 2016, through a special enrollment period. According to the May 12, 2016 eligibility redetermination notice, you needed to confirm your plan selection by July 10, 2016. The reason stated as to why you were found ineligible for financial assistance was based upon NYSOH receiving information that you had Medicare Part A and/or Part B coverage at that time.

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As a result, you were also disenrolled from your Essential Plan, effective May 31, 2016 as stated in the May 12, 2016 disenrollment notice and, because you did not select a QHP at that time, were without insurance as of June 1, 2016.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of you being determined ineligible for the Essential Plan and being disenrolled from your Essential Plan, effective May 31, 2016, as addressed in the May 12, 2016 notices, an appeal should have been filed within 60 days of those notices; that is, by July 11, 2016. According to the credible evidence in the record, you did not contact NYSOH until August 10, 2016 to file a formal appeal. Your August 10, 2016 appeal request was beyond 60 days from the May 12, 2016 eligibility redetermination and disenrollment notices.

Therefore, there has been no valid timely appeal of the May 12, 2016 eligibility redetermination and disenrollment notices and your appeal on the issue of being ineligible for the Essential Plan and being disenrolled from your Essential Plan, effective May 31, 2016, as stated in those notices is DISMISSED.

Advance Payments of the Premium Tax Credit and Cost Sharing Reductions

According to your NYSOH account, your first appeal was requested on August 10, 2016 insofar as the preliminary eligibility redetermination of that date in part found you newly eligible to receive APTC and cost sharing reductions, effective September 1, 2016. You also appealed being denied retroactive Medicaid for the three previous months.

On August 11, 2016, NYSOH issued an eligibility redetermination notice that was consistent with the August 10, 2016 preliminary eligibility redetermination and in part stated you were newly eligible to receive APTC and cost sharing reductions, effective September 1, 2016, based on a three-person household and a reported income of \$45,431.35. The notice further stated that you qualified for a special enrollment period within which to select a QHP and had until October 9, 2016 to do so.

Therefore, the issue under review is whether NYSOH properly determine you to be eligible to receive APTC and eligible for cost sharing reductions, as of September 1, 2016, through a special enrollment period provided you selected a health plan and confirmed your selection by October 9, 2016.

The application that was submitted on August 10, 2016 listed an annual household income of \$45,431.35 and the eligibility determination relied upon that information.

At that time, you were listed on your application as being in a three-person household. This was because your application listed that you expected to file your 2016 income taxes as married filing jointly and would claim your adult child as a dependent on that tax return.

Your application also listed that only you and your spouse needed health insurance through NYSOH.

You reside in Queens County, where the second lowest cost silver plan available for a couple through NYSOH costs \$736.52 per month.

An annual income of \$45,431.35 is 226.14% of the 2015 FPL for a three-person household. At 226.14% of the FPL, the expected contribution in 2016 to the cost of the health insurance premium is 7.34% of income, or \$277.89 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through NYSOH for a couple in your county (\$736.52 per month) minus your expected contribution (\$277.89 per month), which equals \$458.63 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you and your spouse to be eligible for up to \$459.00 per month in APTC.

The corresponding issue under review is whether you were properly found eligible for cost-sharing reductions. Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$45,431.35 is 226.14% of the applicable FPL, NYSOH correctly found you to be eligible for cost sharing reductions.

Since the August 11, 2016 eligibility redetermination notice properly stated in part that you were eligible for APTC and cost sharing reductions, effective September 1, 2016, it is AFFIRMED.

The record reflects that you did not select a QHP for yourself by October 9, 2016 and, therefore, you were without health insurance coverage from September 1, 2016 forward.

Retroactive Medicaid Eligibility

The next issue under review relates to whether NYSOH properly determined you ineligible for Medicaid from May 1, 2016 through July 31, 2016 on the basis that the program you were determined eligible for, that is, APTC and cost sharing reductions, cannot pay for any care you received in the past.

For purposes of this analysis, you were in a three-person household at the time the August 11, 2016 retroactive Medicaid determination notice was issued.

It is noted that you submitted an updated application on August 10, 2016 and were determined to be ineligible for Medicaid as of that month because your household was over-income for that program, as stated in the August 11, 2016 eligibility redetermination notice.

When an individual files an initial application for Medicaid, his or her eligibility for retroactive Medicaid depends solely on the date of application. To this end, it does not matter whether or not that initial application resulted in Medicaid going forward. Instead, an individual, who has filed an initial application for Medicaid through NYSOH, has the right to be evaluated for Medicaid for the three months before the month of his or her application.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's initial application if the individual received medical services that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

To be eligible for Medicaid in the three months prior to August 10, 2016, your income during those months could be no greater than 138% of the FPL, which at the time of your application was \$2,319.00 per month for a three-person household. It is noted that you had Essential Plan coverage in May 2016, so the need for Medicaid in that month will not be addressed.

The record reflects that your income for 2016 would be \$37,500.00 as of the date of your August 10, 2016 application. As such, you earned at least \$3,125.00 per month in June 2016 and July 2016 when \$37,500.00 is divided by 12 months. Please note that this does not take into account your adult child's income.

Since \$3,125.00 in earned monthly income exceeds the maximum allowable monthly income limit of \$2,319.00 to be eligible for retroactive Medicaid, you do not qualify for Medicaid for the months of June 2016 or July 2016. Therefore, the August 11, 2016 eligibility determination regarding your eligibility for retroactive Medicaid income is MODIFIED to state that, on the basis of being over-income for the months of June 2016 and July 2016, you were not eligible for retroactive Medicaid in those two months.

Essential Plan Eligibility and Enrollment

The application that was submitted on October 24, 2016 listed an annual household income of \$31,333.00 and the eligibility determination relied upon that information.

You are in a two-person household for purposes of this analysis. This is because you changed your household to include you and your spouse. You also listed that you expect to file your 2016 income taxes as married filing jointly 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. As of your October 24, 2016 application, the relevant FPL was \$15,930.00 for a two-person household. Since an annual household income of \$31,333.00 is 196.69% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan.

The last issue under review is whether NYSOH properly determined that your enrollment in the Essential Plan was effective December 1, 2016.

You testified, and the record indicates, that you updated your NYSOH application on October 24, 2016. As a result, you were found eligible for the Essential Plan as of December 1, 2016, and enrolled into a plan on October 24, 2016 with an enrollment start date of December 1, 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 October 24, 2016, you selected an Essential Plan, so your enrollment properly took effect on the first day of the second month following October 2016; that is, on December 1, 2016.

Therefore, the October 25, 2016 eligibility redetermination and enrollment confirmation notices stating that you were eligible for the Essential Plan and enrolled in the Essential Plan you selected, effective December 1, 2016, are correct and must be AFFIRMED.

Decision

Your August 10, 2016 appeal as it related to your spouse is DISMISSED based on your telephone withdrawal through sworn testimony.

There was no valid timely appeal of the May 12, 2016 eligibility redetermination and disenrollment notices and your appeal on the issue of being ineligible for the

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).

Essential Plan and being disenrolled from your Essential Plan, both effective May 31, 2016. Therefore, your appeal in this regard is DISMISSED.

Since the August 11, 2016 eligibility redetermination notice properly stated in part that you were eligible for APTC and cost sharing reductions, effective September 1, 2016, it is AFFIRMED.

The August 11, 2016 eligibility determination regarding your eligibility for retroactive Medicaid income is MODIFIED to state that, on the basis of being over-income for the months of June 2016 and July 2016, you were not eligible for retroactive Medicaid in those two months.

The October 25, 2016 eligibility redetermination and enrollment confirmation notices stating that you were eligible for the Essential Plan and enrolled in the Essential Plan you selected, effective December 1, 2016, are correct and must be AFFIRMED.

Effective Date of this Decision: February 17, 2017

How this Decision Affects Your Eligibility

Under oath and on the record, you withdrew your August 10, 2016 appeal as it related to your spouse, resulting in a dismissal of your appeal in this regard. The effect of this dismissal means the Appeals Unit of NY State of Health will not be reviewing your spouse's eligibility for financial assistance at this time.

Your appeal of NYSOH's May 12, 2016 eligibility redetermination and disenrollment notices was not timely made and, therefore, is being DISMISSED by this decision.

You were eligible for APTC and cost sharing reductions, effective September 1, 2016, and granted a special enrollment period to enroll in a QHP until October 9, 2016, but did not avail yourself of the opportunity to enroll in health insurance coverage during that timeframe.

You were not eligible for retroactive Medicaid for the months of June 2016 and July 2016, because your monthly household income of \$3,125.00 each month exceeded the maximum allowable monthly income limit of \$2,319.00 to be eligible for that program.

The effective date of your Essential Health Plan is December 1, 2016.

You did not have health insurance coverage through NYSOH from June 1, 2016 through November 30, 2016.

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If You Think Your Appeal Should Not Be Dismissed

If you think your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. In that writing, you must explain why you think this dismissal should be vacated.

If you ask us in writing to vacate this dismissal, NYSOH's Appeals Unit will review your request and send you a decision on that request.

If we deny your request to vacate this dismissal, we will tell you that in writing.

If you do not respond to this notice within 30 days, your appeal will remain dismissed. No further action will be taken on it by 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

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).

- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

Your August 10, 2016 appeal as it related to your spouse is **DISMISSED** based on your telephone withdrawal through sworn testimony.

There was no valid timely appeal of the May 12, 2016 eligibility redetermination and disenrollment notices and your appeal on the issue of being ineligible for the Essential Plan and being disenrolled from your Essential Plan, both effective May 31, 2016. Therefore, your appeal in this regard is **DISMISSED**.

Since the August 11, 2016 eligibility redetermination notice properly stated in part that you were eligible for APTC and cost sharing reductions, effective September 1, 2016, it is **AFFIRMED**.

The August 11, 2016 eligibility determination regarding your eligibility for retroactive Medicaid income is **MODIFIED** to state that, on the basis of being over-income for the months of June 2016 and July 2016, you were not eligible for retroactive Medicaid in those two months.

The October 25, 2016 eligibility redetermination and enrollment confirmation notices stating that you were eligible for the Essential Plan and enrolled in the Essential Plan you selected, effective December 1, 2016, are correct and must be **AFFIRMED**.

Under oath and on the record, you withdrew your August 10, 2016 appeal as it related to your spouse, resulting in a dismissal of your appeal in this regard. The effect of this dismissal means the Appeals Unit of NY State of Health will not be reviewing your spouse's eligibility for financial assistance at this time.

Your appeal of NYSOH's May 12, 2016 eligibility redetermination and disenrollment notices was not timely made and, therefore, is being **DISMISSED** by this decision.

You were eligible for APTC and cost sharing reductions, effective September 1, 2016, and granted a special enrollment period to enroll in a QHP until October 9, 2016, but did not avail yourself of the opportunity to enroll in health insurance coverage during that timeframe.

You were not eligible for retroactive Medicaid for the months of June 2016 and July 2016, because your monthly household income of \$3,125.00 each month exceeded the maximum allowable monthly income limit of \$2,319.00 to be eligible for that program.

The effective date of your Essential Health Plan is December 1, 2016.

You did not have health insurance coverage through NYSOH from June 1, 2016 through November 30, 2016.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

