



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

Notice of Decision

Decision Date: January 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011645

[REDACTED]

[REDACTED]

On January 11, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 24, 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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[REDACTED]

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 October 1, 2016?

Did NYSOH properly determine that you were not eligible for Medicaid, as of your August 23, 2016 application?

Procedural History

On July 27, 2016, NYSOH issued an eligibility determination notice stating that you were no longer eligible for Medicaid; however, your Medicaid coverage would continue until September 30, 2016. This was because certain individuals who qualified for Medicaid get coverage for twelve continuous months from the date they were last determined eligible.

Also on July 27, 2016, NYSOH issued an enrollment notice confirming that your enrollment in a Medicaid Managed Care (MMC) plan. The notice also confirmed your enrollment in that MMC since December 1, 2015.

On August 16, 2016, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. 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 September 15, 2016 or you might lose the financial assistance you were currently receiving.

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On August 23, 2016, NY State of Health (NYSOH) received your updated application for financial assistance.

On August 24, 2016, NYSOH issued an eligibility determination notice based on information contained in the August 23, 2016 application. The notice stated that you are eligible to enroll in the Essential Plan, effective October 1, 2016. You contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you were not found eligible for Medicaid.

Also on August 24, 2016, NYSOH issued a disenrollment notice stating that your MMC plan coverage would end effective September 30, 2016.

Finally, on August 24, 2016, issued an enrollment notice confirming your selection of an Essential Plan as of August 23, 2016. The notice stated that your Essential Plan coverage would begin effective October 1, 2016.

On January 11, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. At your request, a Russian-language interpreter [REDACTED] also attended the hearing. 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 by your employer, [REDACTED] during August 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.

On January 12, 2017, you provided to NYSOH Appeals Unit through facsimile two earning statements you received on August 12, 2016 and September 9, 2016.

Accordingly, the record was closed on January 12, 2017.

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) You are seeking insurance for yourself.
- 3) The application that was submitted on August 23, 2016, which requested financial assistance, listed annual household income of \$19,385.34,

consisting of \$745.59 you earn from your employment once every two weeks. You testified that this amount was correct.

- 4) You provided documentation, that your monthly income for August 2016 was \$1,863.45. This figure was derived from the two earning statements issued by your employer, [REDACTED] on August 12, 2016 and September 9, 2016, which reflected your year to date earnings of \$16,014.77 and \$17,878.22, respectively.
- 5) Your application states that you will not be taking any deductions on your 2016 tax return.
- 6) You live in Queens County, New York.
- 7) You testified that you were seeking to be found eligible for Medicaid, rather than the Essential Plan, because the \$20.00 per month premium plus the required co-pays were unaffordable given your living expenses.

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 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 October 1, 2016.

The application that was submitted on August 23, 2016 listed an annual household income of \$19,385.34, which consisted of \$745.59 you attested that you receive from your employment with [REDACTED] [REDACTED] once every two weeks. 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 \$19,385.34 is 164.70% 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 \$19,385.34 is 164.70% 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.

During the hearing, the Hearing Officer requested that you provide all earning statements you received during the month of August 2016. You provided two earning statements issued to you on August 12, 2016 and September 9, 2016. These documents reflected that your monthly income for August 2016 was \$1,863.45.

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 the documentation you provided shows that you earned \$1,863.45 in August 2016 you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

Since the August 24, 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 August 24, 2016 eligibility determination notice is AFFIRMED.

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Effective Date of this Decision: January 18, 2017

How this Decision Affects Your Eligibility

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

You are not eligible for 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
- By mail at:

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- By fax: 1-855-900-5557

Summary

The August 24, 2016 eligibility determination notice is AFFIRMED.

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

You are not eligible for 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:

