



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

Notice of Decision

Decision Date: March 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011653

[REDACTED]

Dear [REDACTED],

On January 23, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 22, 2016 disenrollment notice and the August 5, 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 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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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 properly disenroll you from fee-for-service Medicaid coverage, effective August 31, 2016?

Did NY State of Health properly determine you were eligible to enroll in the Essential Plan, as of the August 5, 2016 eligibility determination notice?

Did NY State of Health properly determine you were not eligible for Medicaid as of the August 5, 2016 eligibility determination notice?

Procedural History

On October 7, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination, stating you were eligible for Medicaid, effective November 1, 2016.

On July 16, 2016, NYSOH issued a notice stating it was time to renew your health coverage. The notice further stated that based on information from federal and state data sources, NYSOH could not make a decision about whether you qualified for financial help paying for health coverage. The notice directed you to update your account between July 16, 2016 and August 15, 2016, or the financial assistance you were receiving might end.

On July 21, 2016, NYSOH received your updated application for health insurance.

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On July 22, 2016, NYSOH issued a notice stating more information was needed to make a determination regarding your eligibility for health insurance through NYSOH. The notice directed you to provide proof of your income by August 5, 2016.

Also on July 22, 2016, NYSOH issued a disenrollment notice stating your fee-for-service Medicaid coverage would end as of August 31, 2016.

Income documentation was uploaded to your NYSOH account on July 30, 2016. This documentation was verified by NYSOH on August 4, 2016.

On August 5, 2016, NYSOH issued a notice of eligibility determination stating you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective September 1, 2016.

On August 16, 2016, NYSOH issued a notice of enrollment confirmation, based on your August 15, 2016 plan selection, stating you were enrolled in the Essential Plan with Fidelis Care with coverage effective September 1, 2016.

On August 18, 2016, NYSOH issued a notice of enrollment confirmation, based on your August 17, 2016 plan selection, stating you were enrolled in the Essential Plan with Healthfirst, effective October 1, 2016.

Also on August 18, 2016, NYSOH issued a notice of disenrollment, based on your August 17, 2016 request, stating your Essential Plan with Fidelis Care was terminated, effective September 30, 2016.

On August 25, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential Plan with Healthfirst insofar as it did not begin September 1, 2016.

On January 23, 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 were determined fully eligible for Medicaid effective November 1, 2015.
- 2) On July 21, 2016, you contacted NYSOH to update your account and you attested to an annual income of \$15,000.

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- 3) Following this update, NYSOH ended your enrollment in your fee-for-service Medicaid coverage as of August 31, 2016.
- 4) You testified you did not request to end your Medicaid coverage.
- 5) On July 28, 2016, you submitted two biweekly paystubs. One with a check date of July 1, 2016 in the gross amount of \$705.12 and the second with a check date of July 15, 2016 in the gross amount of \$714.48. NYSOH verified this documentation on August 4, 2016.
- 6) NYSOH recalculated your annual household income as \$18,454.80, based on this documentation, and redetermined your eligibility on August 4, 2016. You testified this amount is probably correct.
- 7) You further testified the system calculated monthly income amount of \$1,537.90 is inflated due to overtime worked in the month of July 2016 as reflected in the paystubs submitted.
- 8) NYSOH thereafter determined you were eligible to enroll in the Essential Plan based on the recalculated annual household income amount.
- 9) On August 15, 2016, you enrolled in the Essential Plan with Fidelis Care with a September 1, 2016 coverage start date.
- 10) You testified you were advised the hospital at which you were receiving medical treatment did not accept Fidelis Care so you contacted NYSOH on [REDACTED] to switch to an Essential Plan with Healthfirst. This enrollment was effective October 1, 2016.
- 11) You testified you are seeking to have your fee-for-service Medicaid coverage reinstated as of September 1, 2016.
- 12) You testified you are in a one-person household, you intend to file your 2016 tax return with a tax filing status of single and you will claim no dependents.
- 13) You testified you have not been incarcerated, moved counties or become eligible for insurance outside of NYSOH in 2016.
- 14) Your application indicates you reside in [REDACTED] County.

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

Applicable Law and Regulations

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 July 2016 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).

Generally, most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage, even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (NY Social Services Law § 366(4)(c)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

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).

Legal Analysis

The appeal request filed on your behalf on August 25, 2016, indicated you were appealing the October 1, 2016 start date of your Essential Plan with Healthfirst. However, during the hearing, you testified you were seeking reinstatement of your fee-for-service Medicaid coverage as of September 1, 2016.

Accordingly, the issue under appeal is revised to whether NYSOH properly disenrolled you from your fee-for-service Medicaid coverage, effective August 31, 2016, and whether NYSOH properly determined you were eligible for the Essential Plan and not Medicaid, effective September 1, 2016.

The first issue under review is whether NYSOH properly disenrolled you from fee-for-service Medicaid coverage, effective August 31, 2016.

Your NYSOH account establishes you were determined eligible for Medicaid effective November 1, 2015.

Generally, applicants determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage each time they are found eligible for Medicaid, even if they appear to have lost Medicaid eligibility because of changes or updates made to their NYSOH account. This 12-month period, referred to as "continuous coverage," is based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income. There are limited exceptions to the

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continuous coverage rule including an applicant entering prison or another facility that provides medical care, moving out of state, or failing to provide a valid social security number

There is no evidence in the record to support any exception to the continuous coverage rule. Accordingly, because you were determined fully Medicaid eligible effective November 1, 2015, your fee-for-service Medicaid coverage should not have terminated prior to the end of the 12-month continuous coverage period; that is, October 31, 2016.

Therefore, the July 22, 2016 disenrollment notice stating your fee-for-service Medicaid coverage was terminated, effective August 31, 2016, is not correct and is MODIFIED to reflect that your Medicaid coverage ended October 31, 2016.

The second issue is whether NYSOH properly determined you were eligible to enroll in the Essential Plan, as of the August 5, 2016 eligibility determination.

On July 21, 2016, you contacted NYSOH to update your account after a renewal notice had been sent to you. In that application, you attested to an annual income of \$15,000. Following this update, NYSOH directed you to provide documentation of your income in order to make a determination regarding your eligibility for health insurance. In response, you submitted two biweekly paystubs with check dates in July 2016 in the gross amounts of \$705.12 and \$714.48.

NYSOH used the average of these two paychecks, \$709.80, to recalculate your annual household income as \$18,454.80. You testified this annual income amount is probably correct.

Based on the recalculated annual household income amount of \$18,454.80, on August 5, 2016, NYSOH determined you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income 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 \$18,454.80 is 156.8% of the 2015 FPL, NYSOH properly found you eligible for the Essential Plan.

Additionally, in accordance with the above cited guidelines, NYSOH properly determined your monthly premium for the Essential Plan was \$20.00 because your household income was between 150% and 200% of the relevant FPL.

However, as discussed above, you were eligible for 12-months of continuous fee-for-service Medicaid coverage until the end of the term on October 31, 2016.

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Accordingly, the August 5, 2016 eligibility determination notice, to the extent it states you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium is supported by the record and is correct in that respect. However, the effective date of this eligibility determination must be MODIFIED to reflect this eligibility was not effective until November 1, 2016, after your eligibility for Medicaid ended.

The third issue is whether NYSOH properly determined you were not eligible for Medicaid as of the August 5, 2016 eligibility determination notice.

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.

As discussed above, the eligibility determination at issue was based on income documentation you provided. NYSOH calculated your annual household income as \$18,454.80 based on this information. You testified this amount was probably correct.

At the time of the subject eligibility determination, the relevant FPL was \$11,880.00 for a one-person household. Since \$18,454.80 is 155.34% of the 2016 FPL, NYSOH properly found you ineligible for Medicaid on an expected annual income basis, using the information you provided.

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

As previously discussed, you submitted two biweekly paystubs. One with a check date of July 1, 2016 in the gross amount of \$705.12 and the second with a check date of July 15, 2016 in the gross amount of \$704.46. Given the dates of the biweekly paystubs submitted, it appears you should have also received a paycheck on July 29, 2016. However, NYSOH calculated your monthly income as \$1,537.90 using the average of the two paycheck amounts submitted.

Though you testified the system calculated average monthly income amount of \$1,537.90 appeared inflated due to overtime worked in the month of July 2016, your updated application was submitted July 22, 2016, accordingly your household income for the month of July 2016 is determinative. Thus, the competent evidence of record establishes your income for the month of July 2016 was, at least, \$1,537.90.

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. Since the documentation you provided shows that you earned at least \$1,537.90

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in July 2016, you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

Therefore, the August 5, 2016 eligibility determination properly stated, based on the information you provided, that you were ineligible for Medicaid.

Decision

The July 22, 2016 disenrollment notice stating your fee-for-service Medicaid coverage was terminated, effective August 31, 2016, is not correct and is MODIFIED to reflect that your Medicaid coverage ended October 31, 2016.

The August 5, 2016 eligibility determination is MODIFIED to reflect that your eligibility for the Essential Plan, with a \$20.00 monthly premium, thus, is not effective until November 1, 2016.

Your case is RETURNED to NYSOH to reinstate your fee-for-service Medicaid coverage for the months of September and October 2016 and to correct your enrollment date with Health first to November 1, 2016.

Effective Date of this Decision: March 13, 2017

How this Decision Affects Your Eligibility

You were eligible for 12 months of fee-for-service Medicaid coverage ending October 31, 2016.

You were eligible to enroll in the Essential Plan, effective November 1, 2016.

The effective date of your coverage in an Essential Health Plan with Healthfirst is November 1, 2016.

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.

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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 July 22, 2016 disenrollment notice stating your fee-for-service Medicaid coverage was terminated, effective August 31, 2016, is not correct and is MODIFIED to reflect that your Medicaid coverage ended October 31, 2016.

The August 5, 2016 eligibility determination is MODIFIED to reflect that your eligibility for the Essential Plan, with a \$20.00 monthly premium, thus, is not effective until November 1, 2016.

Your case is RETURNED to NYSOH to reinstate your fee-for-service Medicaid coverage for the months of September and October 2016 and to correct your enrollment date with Health first to November 1, 2016.

You were eligible for 12 months of fee-for-service Medicaid coverage ending October 31, 2016.

You were eligible to enroll in the Essential Plan, effective November 1, 2016.

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The effective date of your coverage in an Essential Health Plan with Healthfirst is November 1, 2016.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

