



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: AP000000011677

[REDACTED]

Dear [REDACTED],

On January 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 3, 2016 renewal notice that contained an eligibility redetermination.

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 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 properly determine that you were eligible for the Essential Plan, effective October 1, 2016?

Did NY State of Health determine whether or not you were eligible for Medicaid?

Procedural History

On August 2, 2016, NY State of Health (NYSOH) automatically renewed your application for health insurance.

On August 3, 2016, NYSOH issued an eligibility redetermination notice based on the information contained in the August 2, 2016 application, stating that you were eligible for the Essential Plan with a premium of \$20.00 per month, effective October 1, 2016. That notice also stated that the determination was based on state and federal data sources showing that your income is between \$17,655.00 and \$23,540.00 and that if there have been any changes in your household to contact NYSOH.

On August 10, 2016, you submitted a written appeal request of the August 3, 2016 eligibility redetermination, which included an attestation that you were terminated from your job (see Document [REDACTED]).

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On August 16, 2016, NYSOH issued an eligibility redetermination notice, based on your August 15, 2016 updated application, stating that you were no longer eligible for Medicaid. That notice also stated that you would continue to receive Medicaid continuous coverage until September 30, 2016 and that you must update your account between August 16, 2016 and September 15, 2016.

On August 20, 2016, NYSOH issued a notice, based on your August 19, 2016 updated application, stating that more information was needed to make an eligibility determination. That notice also stated that you must provide proof of income by September 14, 2016.

Also on August 20, 2016, NYSOH issued a disenrollment notice stating that you would be terminated from your Medicaid Managed Care (MMC) plan, effective September 30, 2016.

On August 24, 2016, you submitted your last paystubs from your employer and a letter of attestation stating that you are no longer employed (see Documents [REDACTED], [REDACTED], and [REDACTED]).

On August 25, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the August 16, 2016 eligibility redetermination notice, insofar as you were ineligible for Medicaid; and the August 20, 2016 disenrollment notice insofar as your health insurance coverage through your MMC plan was to end September 30, 2016.

On August 31, 2016, NYSOH issued an eligibility redetermination notice stating that you were conditionally eligible for Aid to Continue through Medicaid until a decision is made on your appeal, effective October 1, 2016.

On September 10, 2016, NYSOH verified your proof of income submitted on August 24, 2016.

On January 13, 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 married filing separate. You will claim no dependents on that tax return.

- 2) You testified that you are separated from your spouse and have not lived together for about three years. You further testified that your estranged spouse does not provide you with any financial support.
- 3) You are seeking insurance for yourself.
- 4) On August 2, 2016, NYSOH automatically renewed your eligibility for health insurance based on information it obtained from state and federal data sources. As a result, you were found eligible for the Essential Plan with a premium of \$20.00 per month, effective October 1, 2016.
- 5) According to your NYSOH account, on August 15, 2016, NYSOH's system pinged an unemployment benefit in the amount of \$18,232.00 and re-determined that you were no longer eligible for Medicaid.
- 6) According to your NYSOH account, you resubmitted your application on August 19, 2016 and listed annual household income of \$8,051.00, consisting of \$8,051.00 you earned from your employment in 2016. You testified at hearing that this amount was incorrect.
- 7) You testified that you were also receiving unemployment benefits in an amount of \$300.00 per week for a period of 26 weeks that were not listed in your application.
- 8) According to your NYSOH account, on August 19, 2016, NYSOH's system pinged an unemployment benefit in the amount of \$18,232.00 and sent out a notice on August 20, 2016 stating that additional information was required to make an eligibility determination in that you needed to provide proof of income by September 14, 2016.
- 9) According to your NYSOH account, on August 24, 2016, you submitted your last paystubs from your employer and a letter of attestation stating that you are no longer employed (see Documents [REDACTED], [REDACTED], and [REDACTED]). NYSOH verified this proof of income on September 10, 2016.
- 10) On January 16, 2016, you submitted your unemployment claim history which reflects that you received 5 payments of \$300.00 in unemployment benefit payments on August 10, 2016, and continued to received payments of \$300.00 per week until December 27, 2016, which equals \$7,200.00. Therefore, your 2016 annual income equaled \$15,251.00, which includes employment income of \$8,051.00 and unemployment benefits of \$7,200.00.
- 11) You testified, and provided documentation, that your sole source of income in the month of August 2016 was your unemployment benefits.

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Your documentation reflects that in August 2016 you received 8 payments of \$300.00 in unemployment benefits, which totaled \$2,400.00 for that month.

12) Your application states that you will not be taking any deductions on your 2016 tax return.

13) Your application states that you live in ██████ 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).

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

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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)).

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, the Marketplace must request data that will allow the Marketplace to verify the household's income (45 CFR §155.320(c)(1)(i)). If the Marketplace cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f)).

De Novo Review

NYSOH Appeals Unit must review each appeal de novo and “consider all relevant facts and evidence adduced during the appeals process” (45 CFR § 155.535(f)). “De novo review means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

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.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency.

The record reflects that your coverage in your MMC plan from the policy period was due to end on September 30, 2016. This prompted NYSOH to redetermine your eligibility and issue the August 3, 2016 renewal notice containing an eligibility redetermination stating that, based on information it obtained from state and federal data source, you were automatically enrolled in the Essential Plan with a premium of \$20.00 per month, effective October 1, 2016.

This was because the information obtained from state and federal data sources on August 2, 2016, indicated your annual household income was between \$17,655.00 and \$23,540.00 and the eligibility redetermination relied upon that information.

You are in a one-person household for purposes of this analysis. This is because you expect to file your 2016 income taxes as married filing separately and will claim no dependents on that tax return. Also, you credibly testified that you have been separated from and have not lived with your spouse for about three years.

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. Since a household income between \$17,655.00 and \$23,540.00 is between 150% and 200% of the applicable FPL for a one-person household, NYSOH properly found you to be eligible for the Essential Plan, using the information obtained from state and federal data sources.

Since the August 3, 2016 renewal notice contained an eligibility redetermination that properly stated you were eligible for the Essential Plan, effective October 1, 2016, based on the information obtained by NYSOH, it is correct and must be **AFFIRMED**.

The second issue under review is whether or not NYSOH determined that you were ineligible 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 (MAGI) that is at or below 138% of the FPL for the

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applicable family size. On the date of your application, the relevant FPL was \$11,880.00 for a one-person household.

The application that was submitted on August 19, 2016 listed annual household income of \$8,051.00, consisting of \$8,051.00 you earned from your employment in 2016. NYSOH's system also pinged an unemployment benefit in the amount of \$18,232.00.

When NYSOH cannot verify information that is required to make an eligibility determination, it must notify the applicant and allow the applicant time to submit satisfactory documentation. On August 20, 2016, NYSOH issued a notice stating that additional information was required to make an eligibility determination and you needed to provide proof of income by September 14, 2016.

On August 24, 2016, you submitted your last three paystubs from your employer and a letter of attestation stating that you are no longer employed, which were verified by NYSOH on September 10, 2016 (see Documents [REDACTED], [REDACTED], and [REDACTED]).

On August 25, 2016, you spoke with NYSOH's Account Review Unit and requested an appeal of your eligibility determination. The record does not contain a notice of eligibility determination or redetermination on the issue Medicaid after you submitted proof of income. It does contain an August 20, 2016 notice in which the NYSOH states that a determination of eligibility could be made without proof of income and an August 26, 2016 notice that acknowledges receipt of an appeal request and identifies one of the issues on appeal as "Eligibility Determination."

Here, the lack of a notice of eligibility determination on the issue of Medicaid eligibility does not prevent the Appeals Unit from reaching the merits of the case or constitute material error. Under 45 CFR § 155.505(b), you are as entitled to appeal NYSOH failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. The text of the August 26, 2016 notice, which acknowledges the appeal on the issue of an eligibility determination, permits an inference that NYSOH did deny your request for a Medicaid redetermination.

Since the Appeals Unit review of NYSOH determinations is performed on a de novo basis, no deference would have been granted to the notice of eligibility determination had it been issued. Therefore, the issue under review is refined to whether you were properly found ineligible for Medicaid as of August 25, 2016.

On January 16, 2017, you submitted your unemployment claim history which reflects that you received 5 payments of \$300.00 in unemployment benefit payments on August 10, 2016, and continued to received payments of \$300.00 per week until December 27, 2016. Therefore, your documentation reflects that in

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2016, you had an annual income of \$15,251.00, which includes employment income of \$8,051.00 and unemployment benefits of \$7,200.00.

Since the record now contains a more accurate representation of what your annual income was for 2016, your case is RETURNED to NYSOH to consider your request for Medicaid eligibility and coverage as of October 1, 2016, based on a household size of one person and an annual 2016 household income of \$15,251.00.

Decision

The eligibility redetermination as contained in the August 3, 2016 renewal notice is AFFIRMED.

Your case is RETURNED to NYSOH to consider your request for full Medicaid eligibility and coverage as of October 1, 2016, based on a household size of one person and an annual household income of \$15,251.00, and to notify you of its redetermination and what further action may be required on your part, if applicable.

Effective Date of this Decision: March 13, 2017

How this Decision Affects Your Eligibility

This is not a final determination of your eligibility. Your case is sent back to NYSOH to redetermine your eligibility based on the evidence you presented at the hearing.

At present, you have Medicaid coverage as of October 1, 2016 as aid to continue during the appeal process, which will not be disturbed until your eligibility is redetermined by NYSOH. NYSOH will notify you once this has been done and what further action may be required on your part, if applicable.

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

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

Summary

The eligibility redetermination as contained in the August 3, 2016 renewal notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to consider your request for full Medicaid eligibility and coverage as of October 1, 2016, based on a household size of one person and an annual household income of \$15,251.00, and to notify you of its redetermination and what further action may be required on your part, if applicable.

This is not a final determination of your eligibility. Your case is sent back to NYSOH to redetermine your eligibility based on the evidence you presented at the hearing.

At present, you have Medicaid coverage as of October 1, 2016 as aid to continue during the appeal process, which will not be disturbed until your eligibility is

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Legal Authority

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

A Copy of this Decision Has Been Provided To:

