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

Notice of Decision

Decision Date: January 13, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000011865

[redacted]

[redacted]

On December 2, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's August 23, 2016 eligibility redetermination and disenrollment notices.

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.

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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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 NY State of Health properly determine that you were not eligible for Medicaid, as of September 30, 2016, and were disenrolled from your Medicaid Managed Care (MMC) plan as of that date?

Procedural History

On August 3, 2016, NYSOH issued a notice that it was time to renew your eligibility for financial assistance for the upcoming policy period and it could not make a decision about whether or not you qualified for financial help paying for your health coverage. The notice instructed you to update the information on your NYSOH account by September 15, 2016 and, if you missed this deadline, the financial assistance you were currently receiving might end.

On August 22, 2016, you updated the information in your NYSOH account.

On August 23, 2016, NYSOH issued an eligibility redetermination notice that stated you were eligible to enroll in the Essential Plan for a limited time, effective October 1, 2016. That notice also stated that your current coverage would end on September 30, 2016, and you needed to pick an Essential Plan. The notice further instructed you to provide proof of your income by November 20, 2016, so your eligibility could be confirmed.

Also on August 23, 2016, NYSOH issued a disenrollment notice confirming that your coverage in the MMC plan you were enrolled in would end September 30, 2016.

On September 2, 2016, NYSOH issued a notice, based on your September 1, 2016 updated application that stated additional income information was needed by September 16, 2016, for NYSOH to confirm your eligibility.

On September 6, 2016, you spoke to NYSOH's Account Review Unit and appealed the August 23, 2016 eligibility redetermination notice insofar as you were not determined eligible for Medicaid.

On September 9, 2016, NYSOH issued eligibility redetermination and enrollment notices in which your request for aid to continue in your MMC plan throughout the appeal process was granted and you were placed back in your MMC plan, effective October 1, 2016.

On October 7, 2016, NYSOH issued an eligibility redetermination notice that stated, based on your updated application of that date, you were eligible to enroll in the Essential Plan, effective November 1, 2016, and needed to pick a plan.

This resulted in an October 7, 2016 disenrollment notice that stated your MMC plan would end effective October 31, 2016.

This further resulted in you filing an additional appeal on October 25, 2016

On November 3, 2016, NYSOH corrected its action and issued notices of eligibility redetermination and enrollment for aid to continue in your MMC plan effective November 1, 2016, with no gap in coverage.

On December 2, 2016, 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) According to your NYSOH account, you were enrolled in an MMC plan and were up for renewal as of October 1, 2016; hence NYSOH sent you a renewal notice based on the information it had available at the time and requested that you update the information in your NYSOH account by September 15, 2016.

2) You updated your application to NYSOH for financial assistance on August 22, 2016.

3) According to your NYSOH account, you expect to file your 2016 tax return as single and will not claim any dependents on that return.

4) On September 3, 2016, you uploaded to your NYSOH account a copy of your 2015 Individual Income Tax Return (Form 1040) showing a negative income balance of -$6,636.00, your Schedule C for 2015 Profit or Loss from Business, and several pay stubs fro part-time employment as a taxi driver.

5) You also uploaded proof that you reside in [redacted] New York on the border of Connecticut and that is why you have a [redacted] Connecticut PO Box.

6) According to your NYSOH account, you reside in Putnam County, New York.

7) On October 20, 2016, NYSOH verified your income documents and determined that your 2016 household income needed to be changed from $20,800.00 to $28,938.03.

8) On October 27, 2016 you uploaded several more income documents including a letter, dated October 19, 2016, from your accountant, which states:

   [Appellant] has been a client of ours for over 10 years. He has been working for [redacted] as a parts delivery person and his expected W2 income for 2016 will be approximately $23,400. He also works part-time driving a Taxi in the evening. This will be considered a self-employed business, as in previous years, and the expected earnings from this will be approximately $4000 for 2016. He also has a shed sale business running at a loss this year again. His Profit & Loss report, showing through September, has it around $10K loss for 2016.

   By netting these numbers together and using the 2015 NOL carryforward of $6600 his expected income for 2016 will be approximately $10,800.

9) Based on your accountant's letter regarding your expected 2016 income of $10,800.00, you testified that you are seeking to remain Medicaid eligible as of October 1, 2016, and to continue to have coverage in your MMC plan based on that eligibility as of October 1, 2016.

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).

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 2015 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 updated on August 22, 2016 listed an annual household income of $18,500.00 and the eligibility determination 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 single and will not claim any dependents on that tax return.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was $11,770.00 for a one-person household. Since an annual household income of $18, 500.00 is 157.18% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan and the eligibility redetermination notice to this effect is AFFIRMED.

The second issue is whether NYSOH properly determined that you were not eligible for Medicaid.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was $11,880.00 for a one-person household. Since $18,500.00 is 155.72% 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, the record now reflects that the business loss you had in 2015 is carried over to your 2016 income and should have been deducted from your adjusted gross income.

You submitted a letter from your accountant, dated October 19, 2916, which credibly explained how this offset occurs and that your expected annual income will be $10,800.00.

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 $16,395.00 annually. Since the documentation you provided is a more accurate representation that your expected 2016 annual income will be $10,800.00 and you are in a one-person household and reside in Putnam County, New York, your case is RETURNED to NYSOH to redetermined your eligibility for Medicaid as of October 1, 2016 and to notify you accordingly.

Decision

The August 23, 2016 eligibility redetermination notice is AFFIRMED as correct when made

Your case is RETURNED to NYSOH to redetermine your eligibility for 2016 coverage based on a one-person household for an individual residing in Putnam County, New York, with an expected annual household income of $10,800.00.

Effective Date of this Decision: January 13, 2017

How this Decision Affects Your Eligibility

You were correctly determined eligible for the Essential Plan, effective October 1, 2016, based on the income information available in your NYSOH account at that time.

Your case is being sent back to NYSOH to redetermine your eligibility for 2016 coverage based on the most accurate income information in the record.

Your aid to continue on your MMC plan will remain in effect until a redetermination is made and you are notified of the outcome

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.

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).

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:

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

Summary

The August 23, 2016 eligibility redetermination notice is AFFIRMED as correct when made

Your case is RETURNED to NYSOH to redetermine your eligibility for 2016 coverage based on a one-person household for an individual residing in Putnam County, New York, with an expected annual household income of $10,800.00.

You were correctly determined eligible for the Essential Plan, effective October 1, 2016, based on the income information available in your NYSOH account at that time.

Your case is being sent back to NYSOH to redetermine your eligibility for 2016 coverage based on the most accurate income information in the record.

Your aid to continue on your MMC plan will remain in effect until a redetermination is made and you are notified of the outcome

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:

[redacted]

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