



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

Notice of Decision

Decision Date: February 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011996

[REDACTED]

Dear [REDACTED],

On January 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 14, 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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Decision

Decision Date: February 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011996

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health(NYSOH) properly determine you were not eligible for Medicaid through NYSOH as of September 14, 2016?

Procedural History

On September 13, 2016, NYSOH received your updated application for health insurance.

On September 14, 2016, NY State of Health (NYSOH) issued an eligibility determination notice, based on your September 13, 2016 application, stating you ([REDACTED]) did not qualify for Medicaid through NYSOH because based on information from state and federal data sources, it was determined that you were already enrolled in or eligible for a public insurance program such as Medicare.

Also on September 14, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you were not eligible for Medicaid.

On January 17, 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 are seeking insurance for yourself.
- 2) You submitted an updated application for health insurance through NYSOH on September 13, 2016.
- 3) Your application indicates you have had active Medicare coverage since September 1, 2004.
- 4) You testified you currently have Medicare Part A coverage which only provides hospital coverage.
- 5) You testified you do not currently have Medicare Part B coverage.
- 6) You testified you became eligible for Medicare Part B coverage in 2004; however, you dropped the coverage four to five years ago because you could not afford the monthly premium.
- 7) You testified you are seeking Medicaid coverage to supplement your Medicare Part A coverage because you cannot afford the Medicare Part B coverage premiums.
- 8) The record reflects you were determined eligible for Medicaid through NYSOH as of September 1, 2014.
- 9) The record reflects you updated your account on August 28, 2015 and you were determined conditionally eligible to purchase a qualified health plan at full cost pending receipt of proof that your Medicare Part A and Part B coverage had terminated.
- 10) The record reflects NYSOH received no proof that your Medicare Part A and Part B coverage terminated and you were thereafter determined ineligible to enroll in health insurance through NYSOH on September 29, 2015.
- 11) 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 general, to qualify for MAGI-based Medicaid through NYSOH, you must also be one of the following:

- An adult aged 19-64 who is not eligible for Medicare Part A or Part B,
- A pregnant woman or infant,
- A child aged 1-18, or
- A parent or caretaker relative

(45 CFR § 155.305(c); NY Soc. Serv. Law § 366(1)(b)).

If an individual does not fall into one of these categories, he or she may still be eligible for non-MAGI-based Medicaid coverage through their Local Department of Social Services or the New York City Human Resources Administration (see NY Soc. Serv. Law § 366(1)(c)).

NYSOH is required to refer an individual who is not eligible for MAGI-based Medicaid because they are in receipt of Medicare, certified disabled, or over the age of 65 to the Local Department of Social Services or the Human Resources Administration. During the referral process, an individual's Medicaid eligibility, including their enrollment in a Medicaid Managed Care plan or receipt of Premium Payment Assistance, continues until such a time as their eligibility can be redetermined on a non-MAGI Medicaid basis (see *generally* 42 CFR § 435.1200, 42 CFR § 435.930, 14 OHIP/LCM-2 effective as of December 1, 2014, GIS 16 MA/04 effective as of January 1, 2016).

Legal Analysis

The issue is whether NYSOH properly determined you were not eligible for Medicaid as of September 14, 2016.

To be eligible for MAGI-based Medicaid through NYSOH, a person cannot be entitled to or enrolled in Medicare Part A or B.

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You testified, and the record reflects, you have been eligible for and enrolled in Medicare part A since 2004. Additionally, you testified you have been eligible for Medicare part B since 2004. Accordingly, the evidence of record establishes that you are entitled to or enrolled in Medicare Part A or B. Therefore, you are not eligible to enroll in Medicaid through NYSOH.

With regard to your contention that you should be eligible for Medicaid because you are only enrolled in Medicare Part A, pursuant to the above cited regulations, your entitlement to Medicaid Part A or B disqualifies you from enrolling in Medicaid through NYSOH. The record reflects you are entitled to both Medicare Part A and Part B.

Therefore, the September 14, 2016 eligibility determination notice stating that you are not eligible for Medicaid through NYSOH, is correct and is AFFIRMED.

Individuals who are no longer eligible for MAGI-based Medicaid because they are receiving Medicare, over the age of 65, or have become certified disabled may qualify for Medicaid under non-MAGI standards. NYSOH is required to refer these individuals to their New York City Human Resources Administration (HRA) for redetermination of their Medicaid eligibility.

Therefore, your case is RETURNED to NYSOH to refer your case to the [REDACTED]

Decision

The September 14, 2016 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to refer your case to the [REDACTED]

Effective Date of this Decision: February 13, 2017

How this Decision Affects Your Eligibility

You are not eligible for Medicaid.

Your case is being referred to [REDACTED] for consideration of your eligibility for non-MAGI-based 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 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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The September 14, 2016, eligibility determination notice is AFFIRMED.

You are not eligible for Medicaid.

Your case is being referred to [REDACTED] for consideration of your eligibility for non-MAGI-based Medicaid.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

