



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

Notice of Decision

Decision Date: February 27, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012080



Dear [REDACTED]

On January 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 21, 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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Issue

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

Did NY State of Health (NYSOH) properly determine that you were not eligible for Medicaid, as of September 21, 2016?

Procedural History

On September 20, 2016 you submitted a financial assistance application through NYSOH. NYSOH rendered a preliminary eligibility determination stating, in relevant part, that you were not eligible to purchase health coverage.

Also on September 20, 2016, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as your eligibility for Medicaid.

On September 21, 2016, NYSOH issued an eligibility determination notice, in relevant part, that you were not eligible for Medicaid because you were 65 years of age or older or because state and federal data sources show that you were receiving Medicaid and were not a parent caretaker relative of a child younger than 19 years of age.

On January 20, 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

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A review of the record supports the following findings of fact:

- 1) You submitted an application for financial assistance for yourself and your six-year-old child on September 20, 2016.
- 2) You testified you want to be found eligible for Medicaid through NYSOH.
- 3) According to your NYSOH account, you expect to file a 2016 federal income tax return, with the tax status of single, and claim your child as a dependent on that return.
- 4) According to your NYSOH account and testimony, you are issued \$2,100.00 per month in Social Security Disability Insurance benefits.
- 5) According to your NYSOH account, you are certified disabled by the Social Security Administration.
- 6) According to your NYSOH account, you do not expect to claim any deductions on your 2016 federal income tax return.
- 7) You testified that you are enrolled in Medicare Parts A and B, and you have been enrolled in Medicare for approximately five years.
- 8) According to your NYSOH account and testimony, you reside in Westchester County, New York.
- 9) You testified that you have been determined eligible for Medicaid with a spenddown by Westchester County's Local Department of Social Services (LDSS).

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

Applicable Law and Regulations

MAGI 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)).

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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); N.Y. Soc. Serv. Law § 366(1)(b)).

Caretaker relative is a relative of a dependent child by blood, adoption, or marriage with whom the child is living, who assumes primary responsibility for the child's care (42 CFR § 435.4).

Dependent child is under the age of 18, or is age 18 and a full-time student in secondary school, if before attaining age 19 the child may reasonably be expected to complete such school or training (42 CFR § 435.4).

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 by the US Department of Health and Human Services, March 19, 2014).

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 \$16,020.00 for a two-person household (81 Fed. Reg. 4036).

Non-MAGI Medicaid

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 N.Y. 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).

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Legal Analysis

The issue under review is whether NYSOH properly determined that you were not eligible for Medicaid effective as of September 21, 2016.

Medicaid through NYSOH (called MAGI-based Medicaid) is available to individuals who are between the ages of 19 and 64, who are not eligible for Medicare Parts A or B; pregnant women or infants; children between the ages of 1 and 18; and parent or caretaker relatives.

According to the credible record, you expect to file a 2016 federal income tax return, with the tax status of single, and claim your six-year-old child as a dependent on that return. You are a parent or a caretaker relative of a dependent child and meet the nonfinancial criteria to be considered for MAGI 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 MAGI that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$16,020.00 for a two-person household.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits may be based on current monthly household income and family size. In order to be eligible for Medicaid a household of one must not exceed a monthly income limit of \$1,843.00.

The record supports that you are issued \$2,100.00 per month in Social Security Disability Insurance benefits. NYSOH properly determined that you were not eligible for Medicaid coverage, even though NYSOH's reasoning was incorrect.

Therefore, the September 21, 2016 eligibility determination is AFFIRMED insofar as determining you not eligible for Medicaid through NYSOH.

During your hearing, you stated you are eligible for and currently enrolled in Medicare Part A and B. Individuals who are not eligible for MAGI Medicaid, 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.

You testified that you have been determined eligible for Medicaid with a spenddown through Westchester LDSS. Therefore, your case will not be referred to Westchester County LDSS.

Decision

The September 21, 2016, eligibility determination notice is AFFIRMED insofar as determining you not to be eligible for Medicaid.

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).

Effective Date of this Decision: February 27, 2017

How this Decision Affects Your Eligibility

You were not eligible for Medicaid through NYSOH as of September 21, 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 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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Summary

The September 21, 2016, eligibility determination notice is AFFIRMED insofar as determining you not eligible for Medicaid.

You were not eligible for Medicaid through NYSOH as of September 21, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

