



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

Notice of Decision

Decision Date: February 21, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012381

[REDACTED]

Dear [REDACTED]

On February 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 17, 2016 eligibility determination.

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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DEPARTMENT OF HEALTH
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Decision Date: February 21, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012381

[REDACTED]

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 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 October 1, 2016?

Procedural History

On August 1, 2016, NY State of Health (NYSOH) received your updated application for financial assistance.

On August 2, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective September 1, 2016. This notice requested that you submit income documentation for your household by October 30, 2016.

On August 11, 2016, income documentation was uploaded to your NYSOH account.

On August 16, 2016, NYSOH recalculated your annual household income based on the income documentation you submitted. That same day, an application was submitted on your behalf based on the household income NYSOH recalculated.

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On August 17, 2016, NYSOH issued an eligibility determination based on the August 16, 2016 application, stating that you were eligible to enroll in the Essential Plan, effective October 1, 2016. The notice stated that you were not eligible for Medicaid because your income was over the allowable income limit for that program.

On October 4, 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 February 13, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, Haitian Creole Interpreter # [REDACTED] and # [REDACTED] interpreted. 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 head of household. You will claim five dependents on that tax return.
- 2) The application that was submitted on August 1, 2016, which requested financial assistance, listed annual household income of \$42,000.00.
- 3) On August 2, 2016, you faxed income documentation to NYSOH. You submitted four paystubs from your employer [REDACTED]. The first was for pay date June 9, 2016 for a gross pay amount of \$919.73; the second was for pay date June 23, 2016 for a gross pay amount of \$866.65; the third was for pay date July 7, 2016 for a gross pay amount of \$470.15; the fourth was for pay date July 21, 2016 for a gross pay amount of \$951.44 and a gross year to date amount of \$12,236.15. You also submitted four paystubs from your second employer, [REDACTED]. The first was for pay date May 28, 2016 for a gross pay amount of \$517.77; the second was for pay date July 2, 2016 for a gross pay amount of \$517.77; the third was for pay date July 16, 2016 for a gross pay amount of \$514.21; the fourth was for pay date July 23, 2016 for a gross pay amount of \$517.77 and a gross year to date amount of \$20,357.16.
- 4) You testified that [REDACTED] and [REDACTED] were your only two jobs in 2016.
- 5) You testified that you were paid biweekly by [REDACTED] and that your pay could vary based on how many days per week you worked. You testified

that you are paid weekly by the [REDACTED] and receive a gross of \$517.77 per week.

- 6) You testified that none of your dependents have any income.
- 7) On August 16, 2016, NYSOH recalculated your income to be \$55,762.07 based on the paystubs you submitted. You testified that you were not entirely sure what your gross earnings for 2016 were, but that this figure is close to what your 2016 gross earnings were.
- 8) You testified that you did not specifically recall what your August 2016 income was, however, your monthly income is usually the same each month.
- 9) You testified that you will not be taking any deductions on your 2016 tax return.
- 10) You testified that you currently reside in Rockland County, and lived in Rockland County throughout 2016.
- 11) You testified that you are not a United States citizen, but you hold a Green Card. You testified that you have held a Green Card for the last three years. You testified that you are not sure what your immigration status was, prior to obtaining your Green Card as your husband previously handled the paperwork for you. You testified that you have been present in the United States for fourteen years.
- 12) Your NYSOH account reflects that you have been an I-155 holder (permanent resident) since February 6, 2014.

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

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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 \$32,570.00 for a six-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 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)).

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 \$32,580.00 for a six-person household (81 Fed. Reg. 4036).

Qualified Immigrants

In NY State, qualified immigrants who were formerly eligible for Medicaid through the state, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of January 1, 2016 (New York's Basic Health Plan Blueprint, p. 19, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>). This category of qualified immigrants

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includes individuals lawfully admitted for permanent residence in the United States who are still in their first five years of permanent residency. (18 NYCRR § 349.3, 8 USC § 1613).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were eligible for the Essential Plan, effective October 1, 2016.

Based on the income documentation that you submitted to NYSOH on August 2, 2016, NYSOH recalculated your household income to be \$55,762.07, and you testified that you believe this figure is close to what your 2016 gross earnings were.

On August 16, 2016, NYSOH submitted a new application on your behalf with the annual household income updated to \$55,762.07 to reflect the information contained in the paystubs you submitted.

You are in a six-person household. You expect to file your 2016 income taxes as head of household and will claim five 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 \$32,570.00 for a six-person household. Since an annual household income of \$55,762.07 is 171.21% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan, based upon their income recalculation based upon the income documentation you submitted.

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 \$32,580.00 for a six-person household. Since \$55,762.07 is 171.06% of the 2016 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the income documentation you provided in your application.

Additionally, you testified that you have a Green Card for three years and the record reflects that you have been a permanent resident for three years. As of January 1, 2016, legal permanent residents who were receiving Medicaid through NY State, but were not eligible for Medicaid under federal law due to

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being in the first five years of their permanent residency, must now receive coverage through the Essential Plan.

Therefore, because you are in your first five years of permanent residency, even if you were income eligible for Medicaid, you do not meet the non-financial requirements for Medicaid.

Since the August 17, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible for the Essential Plan, it was correct and is AFFIRMED.

Decision

The August 17, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: February 21, 2017

How this Decision Affects Your Eligibility

You remain eligible for the Essential Plan.

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.

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If You Have Questions about this Decision (Customer Service Resources):

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Summary

The August 17, 2016 eligibility determination notice is AFFIRMED.

You remain eligible for the Essential Plan.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

