



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

## Notice of Decision

Decision Date: February 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012476

[REDACTED]

Dear [REDACTED]

On February 1, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 13, 2016 eligibility redetermination 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 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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## Decision

Decision Date: February 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012476



## Issue

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

Did NY State of Health properly re-determine that you and your spouse were no longer eligible for Essential Plan and eligible for Medicaid through NYSOH as of December 1, 2016?

## Procedural History

On September 24, 2016, NYSOH issued an eligibility redetermination notice, based on the information contained in the September 23, 2016 application, stating that you and your spouse were eligible for the Essential Plan with a premium of \$20.00 per month, effective November 1, 2016

On October 11, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination as it related to your financial assistance.

On October 18, 2016, NYSOH issued an eligibility redetermination notice, based on the information contained in the October 17, 2016 application, stating that you and your spouse were eligible for the Essential Plan with a premium of \$20.00 per month, effective December 1, 2016.

On November 9, 2016, NYSOH issued a notice, based on your November 8, 2016 updated application, stating that the information in your and your spouse's application did not match state and federal data sources. That notice stated that

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you must provide proof of your income by November 23, 2016 for NYSOH to make an eligibility determination.

Also on November 9, 2016, NYSOH issued a disenrollment notice stating that your and your spouse's Essential Plan coverage would end November 30, 2016.

On November 22, 2016, NYSOH issued a notice, based on your November 21, 2016 updated application, stating that the information in your application does not match state and federal data sources. That notice stated that you must provide proof of your income by December 6, 2016 for NYSOH to make an eligibility determination.

On November 23, 2016, NYSOH issued a notice, based on your November 22, 2016 updated application, stating that the information in your and your spouse's application does not match state and federal data sources. That notice stated that you must provide proof of your income by December 6, 2016 for NYSOH to make an eligibility determination.

On December 13, 2016, NYSOH issued an eligibility redetermination notice, based on the December 12, 2016 updated application, stating that you and your spouse were eligible for Medicaid, effective December 1, 2016.

Also on December 13, 2016, NYSOH issued an eligibility determination notice, based on the December 12, 2016 update, stating that you and your spouse were eligible for Retroactive Medicaid, effective from September 1, 2016 through October 31, 2016.

On December 14, 2016, NYSOH issued an enrollment notice confirming that you and your spouse were enrolled in a Medicaid Managed Care plan effective January 1, 2017.

On February 1, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your request to amend the appeal to have a redetermination of your and your spouse's eligibility for the Essential Plan instead of Medicaid was granted and testimony was received.

The record was held open until February 10, 2017 for you to submit proof of your deductions for 2016; specifically, your tuition and fees deductions and student loan interest deductions. On February 2, 2017, the Appeals Unit received statements of your tuition and fees deductions for 2016 and on February 10, 2017, a statement of your tuition and fees deductions and student loan interest deduction for 2016. These documents were made part of the record as "Appellant's Exhibit A" and "Appellant's Exhibit B," respectively. The record was closed that same day.

## Findings of Fact

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

- 1) According to your NYSOH account and your testimony, you expect to file your 2016 taxes with a tax filing status of married filing jointly. You will claim no dependents on that tax return.
- 2) You are seeking insurance for yourself and your spouse.
- 3) The application that was submitted on December 12, 2016 listed annual household income of \$17,760.00, consisting of \$24,960.00 you earn from your employment less \$4,800.00 paid in tuition and fees expenses and \$2,400.00 in student loan interest paid on behalf of your spouse. You testified these amounts were incorrect and you had no idea where the amounts for the deductions came from.
- 4) You testified that your spouse has not worked since August 2016. His final paycheck was dated August 20, 2016. You further testified that you are your household's sole source of support.
- 5) You testified that you did have tuition and fees in the amount of \$12,480.00 tuition for one semester of graduate school.
- 6) On February 2, 2017, you submitted your 2017 college tuition bill and your spouse's student loan account balances. This record reflects that you had a tuition bill for Spring 2017 dated January 27, 2017 in the amount of \$6,772.90. You received a \$1,979.00 scholarship to offset this expense.
- 7) On February 10, 2017, you submitted your 2016 college tuition bill, reflecting that you had one semester of fees in the amount of \$4,234.75, of which \$925.00 was paid by scholarship. Your total cost of tuition for 2016 is total cost of tuition (\$4,234.75) less scholarship (\$925.00) for a total tuition expense of \$3,309.75.
- 8) Also on February 10, 2017, you submitted your 1098-E which reflects that you paid no student loan interest in 2016.
- 9) You testified that you wanted your Essential Plan reinstated because some of your doctor's do not accept Medicaid as a form of payment.
- 10) According to your NYSOH account and your testimony, you live in Erie County, New York.

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

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## **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 noncitizen 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 \$15,930.00 for a two-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

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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 \$16,020.00 for a two-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).

### Tuition and Fee Deductions

Subject to some limitations, tuition and fees for a dependent's higher education paid by the tax payer to a qualified educational institution can be deducted from adjusted gross income in an amount up to \$4,000.00, provided the tax payer's yearly income does not exceed \$80,000.00 for a single individual or \$160,000.00 if married filing jointly. This deduction was renewed by Congress in December 2014 and made retroactive to the 2014 tax year and extended to December 31, 2017 (26 USC § 222(e); see IRS Publication 970).

## **Legal Analysis**

The first issue under review is whether NYSOH properly redetermined that you were no longer eligible for Essential Plan and eligible for Medicaid through NYSOH as of December 1, 2016.

The application that was submitted on December 12, 2016 listed annual household income of \$17,760.00, consisting of \$24,960.00 you earn from your employment less \$4,800.00 paid in tuition and fees expenses and \$2,400.00 in student loan interest paid on behalf of your spouse. This information was relied upon by NYSOH when it redetermined your eligibility for financial assistance in the upcoming policy period.

However, you testified these amounts were incorrect and you had no idea where the amounts for the deductions came from. Therefore, the record was held open for fifteen days for you to submit proof of your deductions.

On February 10, 2017, you submitted your college tuition bill, reflecting that you had one semester of fees in the amount of \$4,234.75, of which \$925.00 was paid by scholarship (see Appellant's Exhibit B). Your total cost of tuition for 2016 is

total cost of tuition (\$4234.75) less scholarship (\$925.00) for a total tuition expense of \$3,309.75.

Since your household's only source of household income in December 2016 was your employment in the amount of \$24,960.00, your correct income for purposes of Medicaid eligibility is your household income (\$24,960.00) less the tuition and fees deduction (\$3,309.75), which totals \$21,650.25.

According to your NYSOH account, you are married and have no dependents. Therefore, you are in a two-person household for purposes of this analysis.

The Essential Plan is provided through NYSOH to individuals who meet the nonfinancial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the FPL for the applicable family size. The applicable FPL at the time of your December 12, 2016 application was \$15,930.00 for a two-person household.

Since a household income of \$21,650.00 is 135.91% of the applicable FPL for a two-person household, NYSOH properly found you and your spouse to be ineligible for the Essential Plan, using the updated information provided.

Therefore, the sole issue remaining is whether NYSOH properly determined that you and your spouse 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 (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. Since \$21,650.00 is 135.14 % of the 2016 FPL, NYSOH properly found you and your spouse to be eligible for Medicaid on an expected annual income basis, using the updated information provide.

Since the December 13, 2016, eligibility determination properly stated that, based on the information you provided, you and your spouse were eligible for Medicaid, it is correct and is AFFIRMED.

## **Decision**

The December 13, 2016 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** February 22, 2017



## **How this Decision Affects Your Eligibility**

You and your spouse were not eligible for the Essential Plan.

Your spouse's and your eligibility does not change.

You and your spouse were eligible for Medicaid as of December 1, 2016, and were enrolled in a Medicaid Managed Care plan as of January 1, 2017.

## **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

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## **Summary**

The December 13, 2016 eligibility determination notice is AFFIRMED.

You and your spouse were not eligible for the Essential Plan.

Your spouse's and your eligibility does not change.

You and your spouse were eligible for Medicaid as of December 1, 2016, and were enrolled in a Medicaid Managed Care plan as of January 1, 2017.

## **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**

