



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

Notice of Decision

Decision Date: March 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012495

[REDACTED]

Dear [REDACTED],

On January 31, 2017, your spouse appeared by telephone with the aid of a Spanish interpreter at a hearing on your appeal of NY State of Health's October 11, 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).

This page intentionally left blank.



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

Decision

Decision Date: March 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012495

[REDACTED]

Issue

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

Did NY State of Health properly determine your spouse was not eligible for Medicaid in the October 11, 2016 eligibility determination notice?

Procedural History

On September 1, 2016, NY State of Health (NYSOH) received the original application for health insurance submitted on behalf of you and your spouse.

On September 2, 2016, September 8, 2016, and October 11, 2016, NYSOH issued eligibility determination notices stating your spouse did not qualify for Medicaid through NYSOH because state and federal data sources indicated he was receiving Medicare. The notices further stated that individuals enrolled in Medicare cannot receive health coverage through NYSOH.

On October 12, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of these eligibility determinations insofar as your spouse was found ineligible for Medicaid.

Again on October 13, 2016, October 14, 2016, and December 21, 2016, NYSOH issued eligibility determination notices stating your spouse did not qualify for Medicaid through NYSOH because state and federal data sources indicated he was receiving Medicare. The notices further stated that individuals enrolled in Medicare cannot receive health coverage through NYSOH.

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).

On January 31, 2016, your spouse appeared at 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 appealing only your spouse's eligibility.
- 2) The original application for health insurance was submitted to NYSOH on behalf of you and your spouse on September 1, 2016.
- 3) Your spouse was determined ineligible for Medicaid at this time because NYSOH alleged state and federal data sources showed your spouse was receiving Medicare.
- 4) Updated applications for health insurance were submitted on behalf of you and your spouse on September 7, 2016, October 7, 2016, October 14, 2016, and December 20, 2016. Each time your spouse was determined ineligible for Medicaid because of information indicating he was receiving Medicare.
- 5) On October 3, 2016, a letter from the Social Security Administration dated September 15, 2016 was uploaded to your account, stating your spouse's Medicare benefits were terminated as of April 2008 ([REDACTED]).
- 6) On November 15, 2016, a letter from the Social Security Administration dated November 10, 2016 was uploaded to your account, stating "according to SSA records their [sic] is no active Medicare records at this time." ([REDACTED]).
- 7) On December 10, 2016, a letter from the Social Security Administration dated December 5, 2016 was uploaded to your NYSOH account, stating "According to Social Security Administration records Medicare Part A was stop [sic] April 2013 and Part B was stop [sic] May 2008."
- 8) Your spouse testified he does not have active Medicare coverage. He testified he had a disability several years ago that qualified him for Medicare benefits at the time, but the disability has since resolved and, therefore, he no longer qualifies to receive Medicare benefits.
- 9) Your spouse testified, and your account confirms, your spouse is 61 years old.

- 10) Your spouse confirmed his Medicaid Part A benefits ended in April 2013 and his Medicare Part B benefits ended in May 2008.
- 11) Your account indicates NYSOH did not invalidate any of the letters submitted from the Social Security Administration indicating your spouse was no longer receiving Medicare.
- 12) Your spouse testified he had Employer Sponsored Health Insurance (ESHI) through his former employer that terminated on January 1, 2017. He testified he had full medical coverage through this plan and it was extended six months past the date of his termination while his employment case was pending arbitration. He further testified he had coverage through this plan at the time of the September and October 2016 application for health insurance through NYSOH.

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); N.Y. Soc. Serv. Law § 366(1)(b)).

Employer-Sponsored Insurance

An employee who may enroll in an employer-sponsored health insurance plan and an individual who may enroll in the plan because of a relationship to the

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).

employee are considered eligible for minimum essential coverage as long as the plan “is affordable and provides minimum value” (26 CFR § 1.36B-2(c)(3)(i)).

An eligible employer-sponsored plan is “affordable” if the portion of the annual premium that the employee or related individual must pay for self-only coverage does not exceed the required contribution. The required contribution percentage is 9.66% of the employee’s household income for 2016 (26 CFR §1.36B-2(c)(3)(v), 26 CFR §1.36B-2T, IRS Rev. Proc. 2014-62).

Legal Analysis

The issue is whether NYSOH properly determined your spouse was not eligible for Medicaid in the October 11, 2016 eligibility determination notice.

The initial application for health insurance was submitted to NYSOH on behalf of you and your spouse on September 1, 2016. According to your account, your spouse was determined ineligible for Medicaid at this time because NYSOH alleged state and federal data sources showed your spouse was receiving Medicare.

According to the above cited regulations, individuals enrolled in Medicare are not eligible to enroll in MAGI-based Medicaid through NYSOH.

However, on October 3, 2016, a letter from the Social Security Administration dated September 15, 2016 was uploaded to your account, stating your spouse’s Medicare benefits were terminated as of April 2008 ([REDACTED]). This was sufficient evidence to establish your spouse was not enrolled in coverage through Medicare. Your account indicates this letter was never deemed invalid by NYSOH.

Despite numerous attempts on your part, NYSOH failed to take action on this letter or the two subsequent letters submitted from the Social Security Administration indicating your spouse’s coverage through Medicare ended several years prior to the initial application for health insurance.

Your account indicates NYSOH redetermined your spouse’s eligibility on October 7, 2016 and, again, found him ineligible for Medicaid based on his alleged enrollment in Medicare. However, as discussed above, NYSOH was in receipt of sufficient documentation at this time to establish your spouse was no longer enrolled in Medicare.

Accordingly, your case is RETURNED to NYSOH to redetermine your spouse’s eligibility for Medicaid as of October 3, 2016, the date NYSOH received sufficient proof your spouse was not enrolled in Medicare.

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).

It is noted that given your spouse's testimony he was enrolled in a full coverage employer sponsored health plan until January 31, 2017, he is not eligible to enroll in a Medicaid Managed Care plan until February 1, 2017, following the expiration of that employer sponsor health plan.

Decision

Your case is RETURNED to NYSOH to redetermine your spouse's eligibility for fee-for-service Medicaid, as of October 3, 2016, in accordance with this decision.

Effective Date of this Decision: March 22, 2017

How this Decision Affects Your Eligibility

Your case is being sent back to NYSOH for a redetermination of your spouse's eligibility for fee-for-service Medicaid, as of October 3, 2016, given the evidence your spouse was not enrolled in Medicare at that time.

Your spouse is not eligible to enroll in a Medicaid Managed Care plan until February 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

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).

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

Your case is RETURNED to NYSOH to redetermine your spouse's eligibility for Medicaid, as of October 3, 2016, given the evidence your spouse was not enrolled in Medicare at that time.

Your spouse is not eligible to enroll in a Medicaid Managed Care plan until February 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:

