



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

## Notice of Decision

Decision Date: March 7, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012604

[REDACTED]

Dear [REDACTED],

On February 8, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 18, 2016 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

### Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

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

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012604



## Issues

The issues presented for review by the Appeals Unit of the NY State of Health are:

Did New York State of Health properly determine that you were eligible to enroll in the Essential Plan as of October 18, 2016?

Did New York State of Health properly determine that you were not eligible for Medicaid as of October 18, 2016?

## Procedural History

On October 17, 2016, you submitted a financial assistance application through New York State of Health (NYSOH). NYSOH rendered a preliminary eligibility determination that you were eligible to enroll in the Essential Plan with a \$20.00 premium per month.

Also on October 17, 2016, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as your eligibility for Medicaid.

On October 18, 2016, NYSOH issued an eligibility determination notice stating, in relevant part, that you were eligible to enroll in the Essential Plan effective as of December 1, 2016.

Also on October 18, 2016, NYSOH issued an enrollment notice confirming that you were enrolled in an Essential Plan with an enrollment start date of October 1, 2016.

On February 8, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, and the record was closed at the end of the proceeding.

## **Findings of Fact**

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

1. According to your October 17, 2016 application, you were applying for health insurance through NYSOH for yourself.
2. According to your NYSOH account and testimony, you expected to file your 2016 federal income tax return, with the tax status of Head of Household (with qualifying individual), and expected to claim one dependent on that tax return.
3. According to your NYSOH and testimony, you are consistently issued \$1,200.00 biweekly by your employer, [REDACTED]
4. According to your October 17, 2016 application, you attested that your average monthly income is the same as your current month's income.
5. You testified that you could not afford the Essential Plan and want to be found eligible for Medicaid.
6. You testified that your monthly expenses including rent, transportation, and utilities should be considered when making an eligibility determination.

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

## **Applicable Law and Regulations**

### Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term "modified adjusted gross income" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

"Adjusted gross income" means, in the case of an individual taxpayer, gross federal taxable income minus certain specific deductions, such as expenses

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reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

### 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 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).

### Medicaid:

Medicaid can be provided through the Marketplace 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)), N.Y. Soc. Serv. 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).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that you were eligible for the Essential Plan as of October 18, 2016.

You expected to file your 2016 federal tax return with the tax status of Head of Household (with qualifying individual), and expected to claim one dependent on that return. Therefore, you are in a two-person household.

In the application that was submitted on October 17, 2016 you attested to an annual household income of \$31,200.00 and the eligibility determination issued on October 18, 2016 relied on that information.

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 \$15,930.00 for a two-person household. Since \$31,200.00 is 195.86% of the 2015 FPL, NYSOH properly found you to be eligible to enroll in the Essential Plan.

The second issue is whether NYSOH properly determined that were not eligible for Medicaid as of October 18, 2016.

Medicaid can be provided through the Marketplace 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 \$31,200.00 is 194.76% of the 2016 FPL, NYSOH properly found you to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

Financial eligibility for Medicaid for applicants is based on current monthly household income and family size. To be eligible for Medicaid, you would need to

meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,843.00 per month.

The record reflects that you indicated on your October 17, 2016 application that your average monthly income is the same as your currently monthly income. Since you attested to an annual income of \$31,200.00, your monthly income was  $(\$31,200.00/12)$  \$2,600.00. Therefore, your income exceeded the monthly income threshold.

Therefore, NYSOH properly found you eligible to enroll in the Essential Plan and not eligible for Medicaid.

## **Decision**

The October 18, 2016 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** March 7, 2017

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

You remain eligible to enroll in the Essential Plan.

You remain not eligible for 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 after the date 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 date 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

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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 October 18, 2016 eligibility determination is AFFIRMED.

You remain eligible to enroll in the Essential Plan.

You remain not eligible for Medicaid.

### **Legal Authority**

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).



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



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