



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

Notice of Decision

Decision Date: February 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012659

[REDACTED]

Dear [REDACTED],

On January 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 20, 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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Issues

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

Did NY State of Health (NYSOH) properly determine that you were not eligible for Medicaid fee-for-service coverage as of your October 19, 2016 application?

Procedural History

On October 19, 2016, NYSOH received two updates to your application for financial assistance. In response to your final update to the October 19, 2016 application, NYSOH prepared a preliminary eligibility determination stating that you were not eligible for financial assistance, but were eligible to purchase a qualified health plan (QHP) at full cost.

Also on October 19, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the October 19, 2016 preliminary eligibility determination insofar as you were not found eligible for Medicaid.

On October 20, 2016, NYSOH issued an eligibility determination notice based on the last update received on to your October 19, 2016 application, stating that you were newly eligible to purchase a QHP at full cost through NYSOH, effective December 1, 2016.

On January 27, 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.

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Findings of Fact

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

- 1) You testified that you do not expect to file a tax return for 2016 since your only source of income was your Social Security benefits. You further testified that you are divorced and the only person in your household.
- 2) You are seeking insurance for yourself.
- 3) The application that was submitted on October 19, 2016, which requested financial assistance, listed annual household income of \$20,148.00, which consisted solely of \$1,679.00 per month you receive in Social Security benefits. You testified that this amount was correct.
- 4) Your application states that you anticipated taking a total of \$1,250.00 in deductions relating to \$75.00 per month in medical expenses you incurred, and a single \$350.00 penalty you incurred from an early savings account withdrawal during 2016. There is nothing in the record to indicate that you withdrew money from a certificate of deposit or other time-deposit savings account prior to your certificate maturing.
- 5) You live in Queens County, [REDACTED]
- 6) You testified that you are currently enrolled in an employer-sponsored health insurance plan through your current employer, [REDACTED].
- 7) You testified that you were seeking to be found eligible for Medicaid fee-for-service because you cannot afford the health insurance through the Marketplace at full cost. You further testified that you were seeking to continue your Medicaid fee-for-service eligibility that ended as a result of your annual renewal of your eligibility for financial assistance.
- 8) You testified that any eligibility determination other than Medicaid fee-for-service is cost-probative for you due to your rental costs and other monthly bills and necessities.

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

Applicable Law and Regulations

Household 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 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.

There is no provision in law which provides a taxpayer with a deduction for medical expenses under a certain threshold, or for a penalty assessed in connection with an early withdrawal from a savings account.

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 \$11,880.00 for a one-person household (81 Federal Register 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 only issue under review is whether NYSOH properly determined that you were not eligible for Medicaid fee-for-service, effective October 1, 2016.

In the application that was submitted on October 19, 2016, you attested to an expected yearly income of \$20,148.00, which was comprised of (1) \$1,679.00 per month in Social Security benefits received by you, and a total of \$1,250.00 of deductions you expected to take during 2016, which included \$75.00 per month in medical expenses, and a single \$350.00 penalty you incurred from an early savings account withdrawal during 2016. During the hearing, you testified that the amount you provided in your application was correct.

However, since the Internal Revenue Service rules do not allow living expenses such as rent, utilities, cable and phone to be deducted from the calculation of your adjusted gross income, they cannot be deducted when NYSOH computes your modified adjusted gross income for APTC purposes. Furthermore, there is no provision in law which provides a taxpayer with a deduction for medical expenses incurred under a certain percentage of your income. There is also nothing in the record to indicate that you withdrew money from a certificate of deposit or other time-deposit savings account prior to your certificate maturing, which would have permitted your proposed \$350.00 penalty for an early withdrawal. Therefore, NYSOH should have computed your eligibility for financial assistance solely on your Social Security benefits totaling \$20,148.00.

You are in a one-person household. You live alone and do not expect to file a tax return for 2016 since your income is solely comprised of Social Security benefits.

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 \$11,880.00 for a one-person household. Since \$20,148.00 is 169.60% of the 2016 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

You credibly testified that your only source of income since 2014 has been your monthly Social Security benefits totaling \$1,679.00 per month.

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 \$1,367.00 per month.

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Since the credible evidence of record reflects that you received \$1,679.00 in October 2016, you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

Since the October 20, 2016 eligibility determination properly stated that, based on the information you provided, you were not eligible for Medicaid fee-for-service, it was correct and is AFFIRMED.

Decision

The October 20, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: February 10, 2017

How this Decision Affects Your Eligibility

Your eligibility has not changed.

You are not eligible for Medicaid fee-for-service.

You remain eligible to enroll in a QHP at full cost.

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

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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:
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The October 20, 2016 eligibility determination notice is AFFIRMED.

Your eligibility has not changed.

You are not eligible for Medicaid fee-for-service.

You remain eligible to enroll in a QHP at full cost.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

