



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

Notice of Decision

Decision Date: February 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013016

[REDACTED]

Dear [REDACTED],

On February 2, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 1, 2016 eligibility determination and November 22, 2016 eligibility determination notices.

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.

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NY State of Health Account ID: [REDACTED]
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Issues

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

Did NY State of Health properly determine that you were eligible to enroll in the Essential Plan effective December 1, 2016?

Did NY State of Health properly determine that you were ineligible for Medicaid, as of October 1, 2016?

Did NY State of Health properly determine that you were ineligible for Medicaid for September 1, 2016 through September 30, 2016?

Procedural History

On October 31, 2016, NY State of Health (NYSOH) received your updated application for financial assistance. In that application, you requested help paying for medical bills from the last three months.

On November 1, 2016, NYSOH issued an eligibility determination based on the October 31, 2016 application, stating that you are eligible to enroll in the Essential Plan for a limited time, effective December 1, 2016. It further requested that you submit income documentation for your household by January 18, 2017. The notice stated that you were not eligible for Medicaid because your household income was over the allowable income limit for that program.

On November 3, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you were not eligible for Medicaid as of July 1, 2016.

On November 22, 2016, NYSOH issued a notice of eligibility determination stating that you were not eligible for Medicaid for September 1, 2016 through September 30, 2016. That same notice directed you to submit income documentation for the period July 1, 2016 to August 31, 2016 by December 6, 2016 in order for your eligibility for Medicaid coverage for that time period to be determined.

On February 2, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open for 21 days to allow you time to submit supporting documentation in the form of your July 2016, August 2016, and September 2016 paystubs, as well as proof of your dependent's income. No documentation was received within the allotted time. The record is now closed.

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 one dependent on that tax return.
- 2) The application that was submitted on October 31, 2016, which requested financial assistance, listed annual household income of \$27,924.00, consisting of wages you earn from your employment. You testified that this amount was correct.
- 3) You testified that your dependent receives Social Security Disability benefits. You further testified that you are not sure how much your dependent receives in Social Security benefits. You also testified that your dependent does not file a tax return.
- 4) The application that you submitted on October 31, 2016 indicates that your dependent has no income.
- 5) You testified that you are paid weekly.
- 6) You testified that you believe you earned \$800.00 in July 2016 and \$1,200.00 in August 2016. You further testified that you began working for a different agency in September 2016 and your earnings were higher.

- 7) The application that you submitted on October 31, 2016 lists income for September 2016 as \$2,327.00 and indicates that you had no income for July 2016 or August 2016.
- 8) You provided four paystubs from October 2016. The first is for pay date October 7, 2016 for a gross pay amount of \$572.80; the second is for pay date October 14, 2016 for a gross pay amount of \$537.00; the third is for pay date October 21, 2016 for a gross pay amount of \$474.35; the fourth is for pay date October 28, 2016 for a gross pay amount of \$671.25.
- 9) Your application states that you will not be taking any deductions on your 2016 tax return.
- 10) Your application states that you live in Queens County.
- 11) You testified that you are seeking to have Medicaid as of July 1, 2016, as you applied for health insurance in October 2016 and have medical bills for the three months prior to your application.

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

The Marketplace bases its eligibility determinations on modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR § 155.300(a), 42 CFR § 603(e), see 26 USC § 36B(d)(2)(B)).

With regard to eligibility for financial assistance through the Marketplace, a tax filer's household income includes the MAGI of all the individuals in the taxpayer's household who are required to file a federal tax return for the taxable year (26 CFR § 1.36B-1(e)(1); 42 CFR § 435.603(d)(1)).

A person is not required to file a tax return if their gross income is less than the sum of the exemption amount plus the basic standard deduction allowable for that person (26 USC § 6012(1)(A)). For the 2016 year, a dependent who had yearly gross earned income greater than \$6,300.00 or gross unearned income greater than \$1,050.00 would be required to file a tax return (see IRS Revenue Procedure 2014-61).

Unearned income is generally all income other than salaries, wages and other amounts received as pay for work actually performed, including the taxable part of Social Security and pension payments (IRS Publication 929, pg 15).

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For the purposes of determining a person's eligibility for financial assistance for health insurance through the Marketplace, the term "MAGI" 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)).

Social Security Benefits

For the purposes of determining the amount of taxable income a person receives from Social Security benefits, the IRS gives the term "modified adjusted gross income" the same definition as "adjusted gross income," without regard to certain income that is not relevant here (26 USC § 86(b)(2)). Please note that this definition is different than the definition of MAGI the Marketplace uses.

"Adjusted gross income" means, in the case of an individual taxpayer, gross 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 savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

"Gross income" is defined as all income from whatever source it is derived from; however, notwithstanding the apparent overall inclusiveness of this definition, there are numerous items that are specifically excluded from gross income (26 USC § 61).

An individual's income from Social Security benefits is included in their gross income only to the extent that the sum of the person's IRS-defined "modified adjusted gross income" and one-half of their Social Security benefits is greater than \$25,000.00 (26 USC § 86(a)(1), (b)(1)), (c)(1)(A)).

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).

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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 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 \$16,020.00 for 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).

Retroactive Medicaid

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of an initial application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied (42 USCA § 1396A(34); 42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

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Legal Analysis

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

The application that was submitted on October 31, 2016 listed an annual household income of \$27,924.00 and the eligibility determination relied upon that information.

You attested to your intent to file a 2016 return when you requested financial support on the NYSOH application. Since you plan on filing your taxes as head of household and claim one dependent on your 2016 tax return, you are in a two-person household.

Household income for the purposes of calculating a person's eligibility for financial assistance to help pay for the costs of health insurance through NYSOH, consists of the Modified Adjusted Gross Income of all tax filers in a household who are required to file a tax return.

A dependent will be required to file a tax return for 2016 if their earned income is greater than \$6,300.00.

According to the information on your application, your dependent will not be filing a tax return for 2016. However, you testified that your dependent does receive Social Security Disability benefits, but you did not know how much your dependent receives in Social Security Disability benefits. As such, it cannot be determined whether your dependent would be required to file a tax return.

As such, there is insufficient information to determine whether your dependent's income is required in order to determine your household income for the purposes of calculating your eligibility for financial assistance.

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 an annual household income of \$27,924.00 is 175.29% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan.

The second issue is whether NYSOH properly determined that you were ineligible for Medicaid, effective October 1, 2016.

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 \$16,020.00 for a two-person household. Since \$27,924.00 is 174.31% 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 submitted paystubs that shows in October 2016 you received \$2,255.40.

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 \$1,843.00.00 per month. Since the documentation you provided shows that you earned \$2,225.40 in October 2016 you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

Since the November 1, 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.

The second issue under review is whether NYSOH properly determined that you were not eligible for Medicaid for September 1, 2016 through September 30, 2016.

You testified that you are seeking to have Medicaid coverage retroactively applied for the months of July 2016, August 2016, and September 2016.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's application if the individual received medical services that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. To be eligible for Medicaid in July 2016, August 2016, and September 2016, you would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,843.00 per month. There is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during July 2016, August 2016, or September 2016.

In the application you submitted on October 31, 2016, you indicated that you had no income for July 2016 or August 2016 and \$2,327.00 in income for September

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2016. You testified that your income for July 2016 was \$800.00 and for August 2016 was \$1,200.00.

You have submitted no income documentation for yourself or your dependent for July 2016, August 2016, or September 2016.

Since your reported monthly income for September 2016 of \$2,327.00 was more than the \$1,843.00 monthly Medicaid limit for 2016, NYSOH properly determined that you were not eligible for Medicaid coverage during that month. Therefore, the November 22, 2016 eligibility determination stating that you were not eligible for Medicaid in the month of September 2016, is correct and is AFFIRMED.

As you have not submitted income documentation for yourself and your dependent for July 2016 and August 2016, and your testimony regarding your monthly income is inconsistent from the information in your October 31, 2016 application with regard to your monthly income for July 2016 and August 2016, your Medicaid eligibility for July 2016 and August 2016 cannot be determined.

Decision

The November 1, 2016 eligibility determination notice is AFFIRMED.

The November 22, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: February 28, 2017

How this Decision Affects Your Eligibility

You remain eligible for the Essential Plan.

You are ineligible for Medicaid.

You are not eligible for Medicaid in the month of September 2016.

There is insufficient information for your July 2016 and August 2016 Medicaid eligibility to be determined.

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.

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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.

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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- By fax: 1-855-900-5557

Summary

The November 1, 2016 eligibility determination notice is AFFIRMED.

You remain eligible for the Essential Plan.

You are ineligible for Medicaid.

The November 22, 2016 eligibility determination notice is AFFIRMED.

You are not eligible for Medicaid in the month of September 2016.

There is insufficient information for your July 2016 and August 2016 Medicaid eligibility to be determined.

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