



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

Notice of Decision

Decision Date: March 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013186



Dear [REDACTED]

On February 14, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 10, 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 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 Date: March 30, 2017

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 are:

Did NY State of Health properly determine that you were eligible to enroll in the Essential Plan effective January 1, 2017?

Did NY State of Health properly determine that you were not eligible for Medicaid?

Procedural History

On December 29, 2015, NY State of Health (NYSOH) issued an eligibility redetermination notice stating that you were conditionally eligible for Medicaid, effective December 1, 2015.

Also on December 29, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a Medicaid Managed Care (MMC) plan effective February 1, 2016.

On October 9, 2016, NYSOH issued a notice that it was time to renew your health insurance for the next coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by November 15, 2016 or you might lose the financial assistance you were currently receiving.

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On November 9, 2016, NYSOH received your updated application for health insurance. That day, a preliminary eligibility determination was prepared finding you not eligible to receive help paying for your health insurance coverage, effective as of December 1, 2016. However, you could purchase a qualified health plan through NYSOH at full cost.

Also on November 9, 2016, you spoke to NYSOH's Account Review Unit and appealed the determination that you were eligible for a full cost qualified health plan and not eligible for Medicaid.

On November 10, 2016, NYSOH issued an eligibility redetermination notice, based on the updated November 9, 2016 application, stating that you were eligible to purchase a qualified health plan at full cost through NYSOH effective December 1, 2016. That notice further stated you were not eligible for Medicaid, Child Health Plus, or the Essential Plan because you did not meet the income limits for these programs. That notice also stated you were not eligible to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. This was because you told NYSOH that you were married and you will file taxes separately from your spouse.

Also on November 10, 2016, NYSOH issued a disenrollment notice stating that your MMC plan would end November 30, 2016.

On November 18, 2016, you updated your application for financial assistance. NYSOH prepared a preliminary eligibility redetermination finding you eligible for the Essential Plan, effective January 1, 2017.

Also on November 18, 2016, you contacted NYSOH Account Review Unit and requested an appeal of that preliminary redetermination. You also requested Aid to Continue so that your coverage under your MMC plan would continue pending the outcome of this appeal.

On November 19, 2016, NYSOH issued an eligibility determination notice, based on the November 18, 2016 updated application, stating that you are eligible to enroll in the Essential Plan, effective January 1, 2017.

On November 21, 2016, NYSOH granted your request for Aid to Continue.

On November 22, 2016, NYSOH issued an eligibility redetermination notice stating that you were eligible for Medicaid for a limited time, effective December 1, 2016.

Also on November 22, 2016, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a MMC plan effective December 1, 2016.

On February 14, 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 to February 28, 2016 to give you the opportunity to submit supporting evidence, including proof of income for your household.

That same day, NYSOH Appeals Unit received by secure facsimile your supporting evidence, including: a February 14, 2017 letter from your employer; December 2016 paystubs; January 2017 paystubs; and a copy of your 2016 Form W-2. These documents were collectively made part of the record as "Appellant's Exhibit # 1" and the record was 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 married filing single. You will claim no dependents on that tax return.
- 2) You are seeking insurance for yourself.
- 3) The application that was submitted on November 18, 2016, in which you requested financial assistance, listed annual household income of \$28,896.00, consisting of \$16,224.00 you earn from your employment and \$12,672.00 your spouse receives in Social Security Disability Benefits. You testified that these amounts were correct.
- 4) You testified that you have steady employment working about 40 hours a week at \$10.22 per hour and are paid every week.
- 5) You testified and that you earned \$18,920.00 in 2016 and provided a copy of your 2016 W-2 to confirm this amount, which you expected to be comparable in 2017 (see Appellant's Exhibit # 1, p. 3).
- 6) According to the earning statements you submitted, you received \$449.47 in gross earnings on December 2, 2016; \$408.80 on December 9, 2016; \$327.04 on December 16, 2016; \$408.80 on December 23, 2016; \$367.92 on December 30, 2016; \$408.80 on January 6, 2017; \$460.80 on January 13, 2017; and \$388.36 on January 20, 2017 (see Appellant's Exhibit # 1, pp. 4-11).
- 7) According to your November 18, 2016 application and your testimony, you will not be taking any deductions on your 2016 tax return.
- 8) You testified that you and your spouse separated in December 2016 and that he presently resides at his own apartment. You testified that your

spouse's only source of income is monthly Social Security Disability Benefits and that he does not intend to file a tax return.

9) Your application states that you live in Oneida County, New York.

10) You testified that you are appealing your Essential Plan eligibility and wish to be found eligible for Medicaid.

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

Applicable Law and Regulations

Medicaid Eligibility on Renewal and Enrollment Start Dates

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 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).

In general, NYSOH must review Medicaid eligibility once every 12 months or "whenever it receives information about a change in a beneficiary's circumstances that may affect eligibility" (42 CFR § 435.916(a)(1), (d)). NYSOH must make its "redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency" (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must

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require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (45 CFR §155.335(h)).

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b); Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13 ADM-03(III)(F)).

Medicaid Managed Care (MMC) plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H(6)(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; NY Social Services Law § 364-j(1)(c); 18 NYCRR § 360-10.3(h); Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13 ADM-03(III)(F)).

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>).

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)).

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Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see also 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Household Composition

"Family size" means the number of persons counted as members of an individual's household. The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

In the case of a married couple living together, each spouse is included in the Medicaid household of the other spouse, regardless of whether they expect to file a joint tax return (42 CFR § 435.603 (f)(4)).

In general, household income means the aggregate modified adjusted gross income of every person who is included in the taxpayer's family and is required to file a federal tax return (26 CFR § 1.36B-1(e)).

Requirement for Individuals to Report Changes

NYSOH must require an applicant to report any change which may affect eligibility, such as citizenship status, incarceration, residency, household size, and income within 30 days of such change (45 CFR §155.330(b), 45 CFR §155.305, 42 CFR §435.403, 42 CFR §435.406, 42 CFR §425.603).

Legal Analysis

Initially, it is noted that your 12 months of Medicaid eligibility, which began on December 1, 2015, was due to end on November 30, 2016. As such, on October 9, 2016, NYSOH sent you a renewal notice regarding the upcoming policy period. You updated your NYSOH account on November 9 and 18, 2016 and, on November 19, 2016, were redetermined eligible for the Essential Plan, which leads to the first issue under review.

The first issue under review is whether NYSOH properly determined that you were eligible for the Essential Plan, effective January 1, 2017.

The application that was submitted on November 18, 2016 listed an annual household income of \$28,896.00 and the eligibility determination relied upon that information.

At the time of the November 18, 2016 application, you were in a two-person household. This is because you expected to file your 2016 income taxes as married filing single and will claim no dependents on that tax return.

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 November 18, 2016, the date of your most recent application, the relevant FPL was \$15,930.00 for a two-person household. Since an annual household income of \$28,896.00 is 181.79% 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 not 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 that is at or below 138% of the FPL for the applicable family size. On the date of your most recent application, the relevant FPL was \$16,020.00 for a two-person household. Since \$28,860.00 is 180.15% 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.

Since the November 19, 2016 eligibility redetermination notice properly stated that, based on the information you provided, you were eligible for the Essential Plan and ineligible for Medicaid, it was correct and is AFFIRMED.

However, you credibly testified at hearing that you and your spouse separated in December 2016 and that your spouse is living in a separate apartment. Further, you testified that you intend to file 2016 taxes as married filing single and claim no dependents. You submitted a copy of your Form W-2 which shows you earned \$18,920.00 in 2016, which you testified should be comparable in 2017.

Since the record now contains a more accurate representation of your annual household income and size, your case is RETURNED to NYSOH to redetermine your eligibility for 2017 based on a one-person household, for an individual residing in Oneida County with an annual household income of \$18,920.00.

Decision

The November 19, 2016 eligibility redetermination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your eligibility for 2017 based on a one-person household, for an individual residing in Oneida County with an annual household income of \$18,920.00, and to notify you accordingly.

Effective Date of this Decision: March 30, 2017

How this Decision Affects Your Eligibility

You were properly determined eligible for the Essential Plan, effective January 1, 2017.

You were properly determined to be ineligible for Medicaid.

Based on your most current earnings documents and change in household size as provided through your testimony and following the hearing, your case is being sent back to NYSOH to redetermine your eligibility for financial assistance based on an annual income of \$18,920.00 and a one-person household for an individual living in Oneida County. NYSOH will notify you of its redetermination.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace 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

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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 Federal Marketplace. 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 have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

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 November 19, 2016 eligibility redetermination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your eligibility for 2017 based on a one-person household, for an individual residing in Oneida County with an annual household income of \$18,920.00, and to notify you accordingly.

You were properly determined eligible for the Essential Plan, effective January 1, 2017.

You were properly determined to be ineligible for Medicaid.

Based on your most current earnings documents and change in household size as provided through your testimony and following the hearing, your case is being sent back to NYSOH to redetermine your eligibility for financial assistance based on an annual income of \$18,920.00 and a one-person household for an individual living in Oneida County. NYSOH will notify you of its redetermination.

Legal Authority

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

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye bεtumi ama wo obi a okyerε kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען איר געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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