



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

Notice of Decision

Decision Date: May 12, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013280

[REDACTED]

Dear [REDACTED],

On February 28, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 15, 2016 eligibility determination.

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 the 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: May 12, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013280

[REDACTED]

Issues

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

Did NY State of Health properly determine that your spouse and your adult child were eligible to enroll in the Essential Plan, effective December 1, 2016?

Did NY State of Health properly determine that your spouse and your adult child were not eligible for Medicaid?

Procedural History

On November 15, 2016, you updated your application for financial assistance. That day, a preliminary eligibility redetermination was prepared finding your spouse and adult child (Marketplace ID: [REDACTED]) eligible to enroll in the Essential Plan with a \$20.00 monthly premium each for a limited time, effective December 1, 2016.

Also on November 15, 2016, you spoke to NYSOH's Account Review Unit and appealed that eligibility redetermination insofar as it found your spouse and adult child eligible for the Essential Plan and not eligible for Medicaid.

On November 16, 2016, NYSOH issued an eligibility redetermination notice, based on the November 15, 2016 application, stating in part that your spouse and adult child were eligible to enroll in the Essential Plan for a limited time with a \$20.00 monthly premium each, effective December 1, 2016. The notice also

stated you needed to provide proof of citizenship for your spouse by February 12, 2017.

On February 28, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you requested that [REDACTED], an application counselor, to act as an authorized representative. 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) According to your NYSOH account and your testimony, you expect to file your 2016 taxes with a tax filing status of Head of Household with qualifying individuals. You will claim five dependents on that tax return.
- 2) According to your NYSOH account and your testimony, there are seven persons living in your household; you, your spouse, your adult child (DOB [REDACTED] and full time student), your child (DOB [REDACTED]), your adult sibling, and two parents.
- 3) On your November 15, 2016 application for financial assistance with health insurance, you indicated that you intended to file your 2016 income tax return as Head of Household with qualifying individuals, would claim your adult child, your child, your sibling and two parents as dependents, and would have no deductions. You indicated on that application that your spouse and adult child would not be filing taxes in 2016. You further indicated that you would not be claiming your spouse as a dependent on that application.
- 4) According to your November 15, 2016 application, you are seeking insurance for yourself, your spouse, your adult child, your other child and your sibling who lives with you.
- 5) The application that was submitted on November 15, 2016 listed annual household income of \$47,600.00, consisting of \$47,500.00 you earn from your employment and \$100.00 your spouse earns. You testified that these amounts were correct.
- 6) You testified that you have steady employment, earn \$7.50/hr working 35-40 hours a week and are paid weekly.
- 7) You testified that your income for 2017 will remain at the same level as you earned in 2016.

- 8) You testified, and your authorized representative confirmed, that the applications you submitted that state you intend to file as head of household with qualifying individuals and that your spouse would not be filing taxes were correct and not in error.
- 9) You testified that you support all the members living in your household on your income.
- 10) On February 9, 2017, income documentation was uploaded to your NYSOH account. This consisted of your 2016 federal income tax return. This tax return showed a tax status for you and your spouse as married filing jointly, with two children living with you and three other dependents for a total household of seven. The adjusted gross income listed on that return was \$47,793.00 (see Document [REDACTED]).
- 11) Your application states that you and your family live in [REDACTED], New York.
- 12) You testified that your spouse and adult child should also be eligible for Medicaid as they live in your household and the income level is the same for everyone because you are the only one working.

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)).

With regard to eligibility for financial assistance through NYSOH, 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)). The MAGI-based income of a child who is not required to file a tax return is not included in household income (42 CFR § 435.603(d)(2)).

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 2015 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).

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)).

Medicaid for Adults between the Ages of 19 and 65

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 \$24,300.00 for a four-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).

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 \$ 24,250.00 for a four-person household (81 Fed. Reg. 4036.).

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).

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)).

Legal Analysis

Initially there must be an analysis of the household composition and family size due to the November 15, 2016 application stating that your spouse and adult child would not be filing taxes.

The application that was submitted on November 15, 2016, states that your spouse and your adult child (age 19/student) will not be filing taxes. Under the modified adjusted gross income rules, household composition for adults applying

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for financial assistance for health insurance for non-tax filers is the individual and (if living together), spouse and children (natural, adopted and step). Under the modified adjusted gross income rules, household composition for age 19 or 20 (if full time student) not filing taxes is the individual and (if living together), their parents and sibling(s) (natural, adopted and step).

Therefore, NYSOH determined your spouse's eligibility based on a household of four; that is, you, your spouse, your adult child (age 19/student) and your child. Further, NYSOH determined that your adult child was also in a family of four; that is, you, your spouse, your adult child and the adult child's younger sibling. The FPL for 2015 for a family of four is \$24,250.00 and this is the level used by NSYOH in calculating your spouse's and your adult child's eligibility.

The application submitted on November 15, 2016, stated that you would be filing taxes as head of household with qualifying individuals. Under the modified adjusted gross income rules, household composition for adults applying for financial assistance for health insurance for tax filers is the taxpayer and all individuals expected to be claimed as dependents on the tax return.

Therefore, NYSOH determined the eligibility for Medicaid for the household members who were seeking financial assistance and who were listed as dependents on your application for health insurance as a family of seven, consisting of you, your spouse, your adult child, your child, your adult sibling and two parents. The 2016 FPL for a family of seven for Medicaid eligibility is \$36,730.00.

The first issue under review is whether NYSOH properly determined that your spouse and adult child were eligible for the Essential Plan, effective December 1, 2016.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, November 15, 2016, the relevant FPL was \$24,250.00 for a four-person household. Since an annual household income of \$47,600.00 is 196.29% of the 2015 FPL, NYSOH properly found your spouse and your adult child to be eligible for the Essential Plan.

The second issue is whether NYSOH properly determined that your spouse and your adult child (age 19/student) were ineligible 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 application, November 15, 2016, the relevant FPL was \$24,300.00 for a four-person household. Since \$47,600.00 is 195.88%

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of the 2016 FPL, NYSOH properly found your spouse and your adult child to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the November 15, 2016, eligibility determination properly stated that, based on the information you provided, your spouse and your adult child were eligible for the Essential Plan with a \$20.00 per month premium each and ineligible for Medicaid, it is correct and is AFFIRMED.

In addition, the November 16, 2016 and February 8, 2017 eligibility redetermination notices properly stated in relevant part that, based on the information you provided, your spouse and adult child were eligible for the Essential Plan with a \$20.00 per month premium each and ineligible for Medicaid are correct and must be AFFIRMED.

However, on February 9, 2017, you submitted to NYSOH a copy of your 2016 federal income tax return as proof of income. That income tax return shows a tax filing status of married filing jointly with your spouse, that you claimed two children living with you and three other dependents for a total household of seven. Further, that income tax return shows an adjusted gross income of \$47,793.00 for 2016.

As such, that portion of the March 11, 2017 eligibility redetermination notice stating that your spouse and your adult child were eligible for the Essential Plan effective April 1, 2017 was based on incorrect tax status and household sized.

Ordinarily, since the record contains more accurate information as to your household size and income, your case would be RETURNED to NYSOH to redetermine the eligibility for financial assistance of your spouse and your adult child using a seven-person household, a married couple with a tax filing status of married filing jointly, and a household income of \$47,793.00, for your spouse and adult child as individuals living in [REDACTED], New York. However, according to your NYSOH account, as of May 9, 2017, the corrections have been made and your spouse's and adult child's eligibility have been redetermined and they have been found eligible for Medicaid, effective May 1, 2017. As such, no further action is required of NYSOH.

Decision

The November 15, 2016, November 16, 2016 and February 8, 2017 eligibility redetermination notices as they relate to your spouse's and your adult child's eligibility for the Essential Plan are AFFIRMED.

No further action is required of NYSOH.

Effective Date of this Decision: May 12, 2017

How this Decision Affects Your Eligibility

Your spouse and your adult child were eligible for the Essential Plan at \$20.00 per month premium each effective December 1, 2016.

Your spouse and your adult child are currently eligible for Medicaid, effective May 1, 2017, such that no further action is required of NYSOH.

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 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

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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 November 15, 2016, November 16, 2016 and February 8, 2017 eligibility redetermination notices as they relate to your spouse's and your adult child's eligibility for the Essential Plan are AFFIRMED.

Your spouse and your adult child were eligible for the Essential Plan at \$20.00 per month premium each effective December 1, 2016.

Your spouse and your adult child are currently eligible for Medicaid, effective May 1, 2017, such that no further action is required of NYSOH.

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&etumi 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 אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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