



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

## Notice of Decision

Decision Date: March 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013539

[REDACTED]

Dear [REDACTED],

On February 28, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 22, 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 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

Decision Date: March 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013539



## 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 no longer eligible for the Essential Plan as of October 31, 2016?

Did NYSOH properly determine that you were eligible for Medicaid as of November 1, 2016?

## Procedural History

On January 18, 2016, NYSOH received your updated application for financial assistance.

On January 19, 2016, NYSOH issued an eligibility determination based on the January 18, 2016 application, stating that you were eligible to enroll in the Essential Plan, effective March 1, 2016.

Also on January 19, 2016, NYSOH issued an enrollment notice confirming your enrollment in the Essential Plan, effective March 1, 2016.

On November 21, 2016, you called NYSOH and spoke to a representative. During this conversation, the NYSOH representative updated your application for financial assistance.

On November 22, 2016, NYSOH issued an eligibility determination notice, based on your November 21, 2016 application, stating that you were eligible for

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Medicaid effective November 1, 2016. It further stated that you no longer qualify for the Essential Plan as of October 31, 2016.

On November 26, 2016, NYSOH issued a disenrollment notice stating that your enrollment with your Essential Plan would end on November 30, 2016.

On November 28, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you were not eligible for the Essential Plan.

On December 7, 2016, you requested Aid to Continue in order to continue your coverage under the Essential Plan pending the outcome of this appeal.

Also on December 7, 2016, NYSOH granted your request for Aid to Continue.

On December 8, 2016, NYSOH issued a notice of eligibility stating that you were eligible for the Essential Plan for a limited time, effective December 1, 2016.

On February 28, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open until March 15, 2017, to allow you time to submit income documentation from the month of November 2016.

During the hearing, you gave permission for NYSOH Appeals Unit to listen to phone calls you had with NYSOH. NYSOH Appeals Unit reviewed phone calls you made to NYSOH on November 21, 2016, and November 28, 2016.

As of the close of the business day on March 15, 2017, the Appeals Unit did not receive any documents from you. Therefore, the record closed the same day and this decision is based on the record as developed at the time of the hearing.

## **Findings of Fact**

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

- 1) You testified that you are appealing your Medicaid eligibility determination and wish to be found eligible for the Essential Plan.
- 2) You testified that you had lost your job in November 2016 and that your last day of employment was [REDACTED] 6.
- 3) You testified that on November 21, 2016, you contacted NYSOH to inquire whether the loss of your employment affected your eligibility. You further testified that during that phone call, you did not authorize the

representative that you were speaking with to submit an updated application on your behalf. .

- 4) NYSOH Appeals Unit reviewed the phone call you made to NYSOH on November 21, 2016 and determined that:
  - a. You asked the representative what would happen to your eligibility since you had lost your job.
  - b. The representative advised you that she was inputting your new income just to see what your new eligibility determination would be but it would not affect your current coverage.
  - c. The NYSOH representative also stated that you would be able to stay on your Essential Plan until you were ready to switch to Medicaid. She further stated that you could call back at any time to become enrolled in Medicaid.
- 5) The application that was submitted on November 21, 2016, which requested financial assistance, listed an expected annual household income of \$0.00. You testified that this amount was incorrect. You further testified that your annual household income for 2016 was closer to \$16,000.00.
- 6) You testified that you did receive some income in the month of November 2016.
- 7) The Hearing Officer directed you to submit proof of your income for the month of November 2016.
- 8) No income documents for the month of November 2016 were received by the Appeals Unit.
- 9) You testified that you expect to file your 2016 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 10) You testified that you will not be taking any deductions on your 2016 tax return.

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

## **Applicable Law and Regulations**

### Essential Plan

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).

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 2016 FPL, which is \$11,880.00 for a one-person household (80 Federal Register 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 \$11,880.00 for a one-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).

### 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**

The first issue under review is whether NYSOH properly determined that you were not eligible for the Essential Plan, effective October 31, 2016.

The application that was submitted on November 21, 2016 listed an annual household income of \$0.00. You testified that you had lost your job in November 2016 and had remained unemployed. The eligibility determination relied upon that information.

You are in a one-person household. You expect to file your 2016 income taxes as 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 the date of your application, the relevant FPL was \$11,880.00 for a one-person household. Since an annual household income of \$0.00 is 0% of the 2016 FPL, NYSOH properly found you ineligible for the Essential Plan.

However, during the hearing you testified that your annual income for 2016 was closer to \$16,000.00. Even with an annual income of \$16,000.00, you would have still been found not eligible for the Essential Plan, since \$16,000.00 is 134.68% of the 2016 FPL.

You further testified that you did not give the NYSOH representative authority to make any changes on your account on November 21, 2016, and that you called NYSOH to ask a question about your eligibility if you had no income. Since change in income is something that may affect your eligibility, you must inform NYSOH of any changes in your income within 30 days of the change. NYSOH then has the authority to make an eligibility determination based on this new information.

Since the November 22, 2016, eligibility determination notice properly stated that, based on the information you provided, you were ineligible for the Essential Plan, it was correct and is AFFIRMED.

The second issue under review is whether NYSOH properly determined that you were eligible for Medicaid, effective November 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 \$11,880.00 for a one-person household. Since \$0.00 is 0% of the 2016 FPL, NYSOH properly found you to be eligible for Medicaid on an expected annual income basis, using the information provided in your application.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits can also be based on current monthly household income and family size.

You testified that you had lost your job in November 2016. On your November 28, 2016 application, you attested that your monthly income was \$0.00. However, you testified that you received some income for the month of November 2016.

The Hearing Officer left the record open until March 15, 2017 to give you the opportunity to submit income documentation to support your testimony of your monthly income for the month of November 2016. As of the close of the record, no documentation was received by the NYSOH Appeals Unit.

Therefore, absent evidence to the contrary, the credible evidence in the record indicates that in the month of November 2016, you had a monthly household income of \$0.00 due to loss of your employment.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income less than 138% of the FPL, which is \$1,367.00 per month. Since the testimony you provided shows that you earned \$0.00 in November 2016, you qualify for Medicaid on the basis of monthly income as of the date of your application.

Since the November 28, 2016, eligibility determination properly stated that, based on the information you provided, you were eligible for the Medicaid, it was correct and is AFFIRMED.

## **Decision**

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The November 22, 2016 eligibility determination notice finding you ineligible for the Essential Plan is AFFIRMED.

**Effective Date of this Decision:** March 22, 2017

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

You remain ineligible for the Essential Plan, effective October 31, 2016.

You are eligible for Medicaid, effective November 1, 2016.

### **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 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

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- By fax: 1-855-900-5557

## **Summary**

The November 22, 2016 eligibility determination notice is AFFIRMED.

You remain ineligible for the Essential Plan.

You are eligible for Medicaid.

## **Legal Authority**

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

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

