



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

Notice of Decision

Decision Date: May 31, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013609

[REDACTED]

[REDACTED]

Dear [REDACTED]

On May 19, 2017, you appeared as an authorized representative for your parents by telephone at a hearing on your appeal of NY State of Health's November 30, 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013609

[REDACTED]

[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 parents were ineligible to enroll in the Essential Plan effective January 1, 2017?

Did NY State of Health properly determine that your parents were not eligible for Medicaid, as of January 1, 2017?

Did NY State of Health properly determine that your parents were ineligible for Advance Payments of the Premium Tax Credit effective January 1, 2017?

Did NY State of Health properly determine that your parents were ineligible for cost sharing reductions effective January 1, 2017?

Procedural History

On November 29, 2016, NY State of Health (NYSOH) received your parents updated application for financial assistance. That day, a preliminary eligibility determination was prepared stating that your parents were eligible to purchase a qualified health plan at full cost.

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On November 29, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as your parents were determined no longer eligible for advance premium tax credits and cost sharing reductions.

On November 30, 2016, NYSOH issued an eligibility determination notice based on the November 29, 2016 application, stating your parents were eligible to purchase a qualified health plan at full cost effective January 1, 2017. The notice stated your parents did not qualify for Medicaid because they are over 65, or because state and federal data sources show they were receiving Medicare and because they are not a parent or caretaker relative of a child younger than 19. The notice further stated they were not eligible for the Essential Plan because you must be under 65 years of age. The notice further stated they were not eligible to receive the premium tax credit because the income information in your application is under \$16,020.00.

On December 4, 2016, an enrollment notice was issued confirming your parents' enrollment in a silver level qualified health plan starting January 1, 2017.

On May 23, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open 15 days for you to provide proof of your parents' lawful permanent resident status. The NYSOH Appeals Unit received your additional documentation on May 21, 2017 and has been incorporated into the record as (Appellant's Exhibit 2). The record is now closed.

Findings of Fact

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

- 1) You testified that your parents expect to file their 2017 taxes with a tax filing status of married filing jointly. They will claim no dependents on that tax return.
- 2) You are seeking insurance for your two parents.
- 3) You are an authorized representative for your two parents with regards to any matters related to their NYSOH account.
- 4) The application that was submitted on November 29, 2016, which requested financial assistance, listed annual household income of \$0.00. You testified that this amount was correct.

- 5) The record supports your mother is [REDACTED], and your father is [REDACTED].
- 6) You testified your parents are Immigrant non-citizens.
- 7) You testified your parents are ineligible for Medicare based on their immigration status.
- 8) You testified your parents are not eligible for Medicaid based on being in a five-year waiting period since the date of the entry into the United States.
- 9) You testified your parents entered the United States three years ago, [REDACTED].
- 10) You provided documentation consisting of copies of your parents' lawful permanent resident cards showing a category of IR 5, and entry date of July 4, 2013, and an expiration date of July 23, 2023. See Appellant's Exhibit 2, pgs. 2-3.
- 11) Your application states that your parents live in [REDACTED].

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

Applicable Law and Regulations

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).

Qualified Immigrants Transitioned to the Essential Plan

In New York State, qualified immigrants who were formerly eligible for Medicaid through the state, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of January 1, 2016 (New York's Basic

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Health Plan Blueprint, p. 19, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>). This category of qualified immigrants includes individuals lawfully admitted for permanent residence in the United States who are still in their first five years of permanent residency (18 NYCRR § 349.3, 8 USC § 1613).

Medicaid

A person who meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard is eligible for Medicaid benefits (45 CFR § 155.305(c)). One of the non-financial criteria for Medicaid eligibility is the immigration status of the person applying for health insurance. A person is eligible for Medicaid when his or her immigration status is satisfactory and he or she meets all other requirements for 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 general, to qualify for MAGI-based Medicaid through NYSOH, you must also be one of the following:

- An adult aged 19-64 who is not eligible for Medicare Part A or Part B,
- A pregnant woman or infant,
- A child aged 1-18, or
- A parent or caretaker relative

(45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

If an individual does not fall into one of these categories, he or she may still be eligible for non-MAGI-based Medicaid coverage through their Local Department of Social Services or the New York City Human Resources Administration (see N.Y. Soc. Serv. Law § 366(1)(c)).

Advance Payments of the Premium Tax Credit:

Advance payments of the premium tax credit (APTC) are available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the applicable FPL, (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan, and (3) is not otherwise eligible for minimum essential coverage except through the individual

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market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR § 155.300(a), 45 CFR § 155.305(f)(1)(i)). 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).

An individual may qualify for the premium tax credit if their household income is less than 100% of the FPL if you meet all of the following requirements; 1. You or an individual in your tax family enrolled in a qualified health plan through a Marketplace, 2. The enrolled individual is lawfully present in the United States and is not eligible for Medicaid because of immigration status, 3. You otherwise qualify as an applicable taxpayer (see IRS Publication 974 pg.4, Instructions for Form 8962 pg. 7).

Qualified Health Plan

To enroll in a qualified health plan (QHP) through NYSOH, an applicant must be a citizen or national of the United States or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

Lawful Presence

Lawfully present means, a qualified alien as defined in section 431 of the Personal Responsibility and Work Opportunity Act.

A qualified alien as defined by the Personal Responsibility and Work Opportunity Act means, an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act.

See (45 CFR §152.2 (1)), (8 U.S. Code §1641 (b)(1)).

Cost-Sharing Reductions:

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive advanced premium tax credits, (3) is expected to have an annual household income that does not exceed 250% of the applicable FPL for the plan year for which coverage is requested, (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your parents were ineligible to enroll in the Essential Plan, effective January 1, 2017.

The Essential Plan is provided through NYSOH to individuals who are lawfully present non-citizens who are ineligible for Medicaid or Child Health Plus as a result of their immigration status, and have a household income that is between 0% and 200% of the Federal Poverty Level (FPL), and must be 64 years old or younger.

The application that was submitted on November 29, 2016 listed your mother as [REDACTED], and your father is [REDACTED]. You testified this was correct.

Since your parents are over the age of 64, they are not eligible for the Essential Plan.

The second issue is whether NYSOH properly determine that your parents were not eligible for Medicaid, as of January 1, 2017.

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.

You testified you parents have no income, are over the age of 65, and are lawful permanent residents.

Medicaid through NYSOH (called MAGI-based Medicaid) is available to individuals who are between the ages of 19 and 64, who are not eligible for Medicare Parts A or B; pregnant women or infants; children between the ages of 1 and 18; and parent or caretaker relatives.

According to your testimony and the information in your NYSOH application, your parents have no dependents, therefore, they are not a parent or a caretaker relative of a dependent child.

At the time NYSOH issued the November 30, 2016 eligibility determination your parents were each [REDACTED].

Since your parents are over the allowable age limit for MAGI-based Medicaid, and are not a parent or caretaker relative, NYSOH properly determined that your parents are not eligible for Medicaid through NYSOH.

The third issue is whether NYSOH properly determined that your parents were ineligible for APTC effective January 1, 2017.

The application that was submitted on November 29, 2016 listed an annual household income of \$0.00 and the eligibility determination relied upon that information.

Your parents are in a two-person household. They expect to file their 2017 income taxes as married filing jointly and will claim no dependents on that tax return.

Advance payments of the premium tax credit are available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the applicable FPL, (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan, and (3) is not otherwise eligible for minimum essential coverage except through the individual market.

The record shows your parents household income is below 100% of the FPL or below \$16,020.00 for a two-person household as their annual expected income for 2017 is \$0.00.

Based on Internal Revenue Service (IRS) regulations, an individual may qualify for the premium tax credit if their household income is less than 100% of the FPL if they meet all of the following requirements; 1. they or an individual in their tax family enrolled in a qualified health plan through a Marketplace, 2. The enrolled individual is lawfully present in the United States and is not eligible for Medicaid because of immigration status, 3. they otherwise qualify as an applicable taxpayer

However, since your parents are ineligible for MAGI Medicaid because of their age and not because of their immigration status, they would not qualify for APTC based on the IRS regulation outlined above.

As a result, your parents are both ineligible for APTC for purposes of the November 30, 2016 eligibility determination notice.

The fourth issue is whether your parents were properly found ineligible for cost-sharing reductions. Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL, is enrolled in a silver level qualified health plan and is otherwise eligible for APTC. Since your parents are otherwise ineligible for APTC, they are ineligible for receipt of cost sharing reductions.

Since the November 30, 2016 eligibility determination notice properly found your parents ineligible for the Essential Plan, Medicaid, APTC, and cost-sharing reductions it is AFFIRMED.

Decision

The November 30, 2016 eligibility determination is AFFIRMED.

Effective Date of this Decision: May 31, 2017

How this Decision Affects Your Eligibility

Your parents remain ineligible for the Essential Plan.

Your parents remain ineligible for Medicaid.

Your parents are ineligible for Advance Payments of the Premium Tax Credit.

Your parents are ineligible for cost-sharing reductions.

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

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- 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

Summary

The November 30, 2016 eligibility determination is AFFIRMED.

Your parents remain ineligible for the Essential Plan.

Your parents remain ineligible for Medicaid.

Your parents are ineligible for Advance Payments of the Premium Tax Credit.

Your parents are ineligible for cost-sharing reductions.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]

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 okyerE 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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