



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

Notice of Decision

Decision Date: March 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013630

[REDACTED]

[REDACTED]

Dear [REDACTED]

On February 23, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 19, 2016 disenrollment notice and 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 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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NY State of Health Account ID: [REDACTED]
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[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 disenrolled from Medicaid and your Medicaid Managed Care plan, effective November 30, 2016?

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

Did NY State of Health properly determine that you were not eligible for Medicaid, effective January 1, 2017?

Procedural History

On December 29, 2015, NY State of Health (NYSOH) received your application for financial assistance with health insurance.

On December 30, 2015, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid because your household income of \$14,000.00 was at or below the allowable income limit. This eligibility was effective as of January 1, 2016.

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Also on December 30, 2015, NYSOH issued an enrollment confirmation notice, confirming your selection of a Medicaid Managed Care plan, with an enrollment start date of February 1, 2016.

On October 8, 2016, NYSOH issued a notice that it was time to renew your health insurance for the upcoming 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.

On October 18, 2016, you updated your application for financial assistance with health insurance.

On October 19, 2016, NYSOH issued a notice stating that the income information in your application did not match what NYSOH had received from state and federal data sources and that additional information was needed in order to confirm the information in your application. This notice requested that you provide proof of income by November 2, 2016.

Also on October 19, 2016, NYSOH issued a disenrollment notice indicating that your enrollment in Medicaid and your Medicaid Managed Care plan would end on November 30, 2016.

On November 29, 2016, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible to enroll in the Essential Plan, effective January 1, 2017.

Also on November 29, 2016, you spoke to NYSOH's Account Review Unit and appealed this preliminary eligibility determination, insofar as you were not found eligible for Medicaid as of December 1, 2016.

On November 30, 2016, NYSOH issued a notice of eligibility determination, based on the November 29, 2016 application, stating that you were eligible to enroll in the Essential Plan, effective January 1, 2017. That notice also stated that you were not eligible for Medicaid because your income was over the allowable income limits for that program.

On February 23, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. 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) You were determined eligible for Medicaid, effective January 1, 2016.
- 2) There is no indication in the record that you were incarcerated, permanently moved, or obtained health insurance outside of NYSOH in 2016.
- 3) You testified that you expect to file your 2017 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 4) You are seeking insurance for yourself.
- 5) The application that was submitted on November 29, 2016 listed annual household income of \$20,832.00, consisting of \$1,736.00 you receive per month in Social Security Disability benefits. You testified that this amount was correct.
- 6) You submitted your Social Security Disability award letter which indicates that beginning in October 2016 you will receive \$1,736.00 per month.
- 7) You testified that your Social Security Disability benefit is the only income you are presently receiving.
- 8) You testified that your Social Security Disability benefit increased to \$1,742.00 for 2017.
- 9) Your application states, and you testified, that you will not be taking any deductions on your 2017 tax return.
- 10) Your application states, and you testified, that you live in Niagara County.
- 11) You testified that you have expenses related to your motor vehicle as well as outstanding personal debts that you would like considered.

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

Applicable Law and Regulations

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).

Generally, most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage, even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (NY Social Services Law § 366(4)(c)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

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

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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 (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)).

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)).

"Adjusted gross income" means, in the case of an individual taxpayer, gross federal taxable 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 time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

Legal Analysis

The first issue under review is whether NYSOH properly disenrolled you from Medicaid and your Medicaid Managed Care plan, effective November 30, 2016.

On December 30, 2015, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective January 1, 2016. That determination has not been appealed and is not under review.

On October 8, 2016, NYSOH issued a renewal notice requesting that you update your NYSOH account by November 15, 2016 in order for your eligibility to be determined.

On October 18, 2016, you updated your application for financial assistance. As a result of that application, on October 19, 2016, NYSOH issued a notice requesting income documentation in order to determine your eligibility for financial assistance. Also on October 19, 2016, NYSOH issued a disenrollment notice, stating that your enrollment in Medicaid and your Medicaid Managed Care plan would end as of November 30, 2016.

However, under New York State law, once a person is found eligible for Medicaid, that eligibility generally continues for 12 months, even if the household income rises above 138% of the FPL. This provision is called “continuous coverage”.

The record reflects that there were no events that would have been a basis for your Medicaid coverage to have been terminated, such as a permanent move or incarceration. Since you were determined eligible for Medicaid based on the application submitted on December 29, 2015, effective January 1, 2016, you remained eligible for Medicaid for 12 continuous months, regardless of any increases in your household income. As a result, you were improperly disenrolled from Medicaid and your Medicaid Managed Care plan, effective November 30, 2016.

Since NYSOH determined you were eligible for Medicaid as of January 1, 2016, and therefore eligible for continuous coverage, the October 19, 2016 disenrollment notice is MODIFIED to state that your enrollment in your Medicaid Managed Care plan is terminated effective December 31, 2016 to provide you coverage until the end of your 12-month continuous coverage period.

Your case is RETURNED to NYSOH to reinstate you into Medicaid and your Medicaid Managed Care plan for the month of December 2016.

The second 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 29, 2016 listed an annual household income of \$20,832.00 and the eligibility determination relied upon that information.

During the hearing, you testified that the amount you provided in your application was correct. However, you asked that your current expenses, which include vehicle expenses and personal debts, be considered when calculating your annual household income.

Since the Internal Revenue Service rules do not allow living expenses such as rent, utilities, cable and phone to be deducted from the calculation of your adjusted gross income, they cannot be deducted when the NYSOH computes your modified adjusted gross income for APTC purposes. Therefore, NYSOH correctly determined your household income to be \$20,832.00.

You are in a one-person household. You expect to file your 2017 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 that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,080.00 for a one-person household. Since an annual household income of \$20,832.00 is 188.01% of the 2016 FPL, NYSOH properly found you to be eligible for the Essential Plan.

The third issue is whether NYSOH properly determined that you were ineligible for Medicaid, effective 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 \$11,080.00 for a one-person household. Since \$20,832.00 is 188.01% 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 your Social Security Disability award letter that shows in November 2016 and December 2016 you received \$1,736.00 per month.

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 \$1,367.00 per month. Since the documentation you provided shows that you received \$1,736.00 in

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November 2016 and December 2016 you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

Since the November 30, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible for the Essential Plan and ineligible for Medicaid, it is correct and is AFFIRMED.

Decision

The October 19, 2016 disenrollment notice is MODIFIED to state that your enrollment in your Medicaid Managed Care plan is terminated effective December 31, 2016 to provide you coverage until the end of your 12-month continuous coverage period.

Your case is RETURNED to NYSOH to reinstate you into Medicaid and your Medicaid Managed Care plan for the month of December 2016.

The November 30, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: March 3, 2017

How this Decision Affects Your Eligibility

Your Medicaid coverage, which began on January 1, 2016, continued until December 31, 2016.

Your case is being sent back to NYSOH to reinstate you in your Medicaid and Medicaid Managed Care plan for the month of December 2016.

You are eligible for the Essential Plan as of January 1, 2017.

You are ineligible for Medicaid as of January 1, 2017.

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

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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 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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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The October 19, 2016 disenrollment notice is MODIFIED to state that your enrollment in your Medicaid Managed Care plan is terminated effective December 31, 2016 to provide you coverage until the end of your 12-month continuous coverage period.

Your Medicaid coverage, which began on January 1, 2016, continued until December 31, 2016.

Your case is RETURNED to NYSOH to reinstate you into Medicaid and your Medicaid Managed Care plan for the month of December 2016.

Your case is being sent back to NYSOH to reinstate you in your Medicaid and Medicaid Managed Care plan for the month of December 2016.

The November 30, 2016 eligibility determination notice is AFFIRMED.

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You are eligible for the Essential Plan as of January 1, 2017.

You are ineligible for Medicaid as of January 1, 2017.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]