



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: AP000000013814

[REDACTED]

Dear [REDACTED],

On March 16, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's December 6, 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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NY State of Health Account ID: [REDACTED]
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[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 you were eligible for the Essential Plan?

Did NY State of Health properly determine that you were not eligible to receive Medicaid through NY State of Health as of January 1, 2017?

Procedural History

On January 6, 2016, NY State of Health (NYSOH) issued an eligibility determination notice stating that you were eligible for Medicaid, effective January 1, 2016.

Also on January 6, 2016, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a Medicaid Managed Care plan, effective February 1, 2016.

On October 18, 2016, NYSOH issued a renewal notice stating that you no longer qualified for health coverage under Medicaid but you do qualify to buy a health plan at full cost, effective January 1, 2017.

On November 24, 2016, NYSOH issued a notice stating that your Medicaid Managed Care plan would end on December 31, 2016 because you were no longer eligible to enroll in that plan.

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On December 5, 2016, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible for the Essential Plan, effective January 1, 2017.

Also on December 5, 2016, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination insofar as you were no longer eligible for Medicaid.

On December 6, 2016, NYSOH issued a notice of eligibility determination, based on the December 5, 2016 application, stating that you were eligible for the Essential Plan, effective January 1, 2017. You were not eligible for Medicaid because your household income was over the allowable income limit for that program.

On March 16, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing, during which [REDACTED] acted as your Authorized Representative and assisted you with your testimony. The record was closed at the end of the hearing.

Findings of Fact

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

- 1) Your authorized representative 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.
- 2) You are seeking insurance for yourself.
- 3) The application that was submitted on December 5, 2016 listed annual household income of \$21,456.00, consisting of income from Social Security. You testified that this amount was correct.
- 4) Your authorized representative testified, that your monthly income for December 2016 was \$1,794.00.
- 5) Your application states that you will not be taking any deductions on your 2017 tax return.
- 6) Your application states that you live in [REDACTED] County.
- 7) Your application indicates that you are [REDACTED].
- 8) You testified that your only source of income is from Social Security disability.

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).

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)).

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

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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).

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)).

NYSOH is required to refer an individual who is not eligible for MAGI-based Medicaid because they are in receipt of Medicare, certified disabled, or over the age of 65 to the LDSS or the HRA. During the referral process, an individual's Medicaid eligibility, including their enrollment in a Medicaid Managed Care plan or receipt of Premium Payment Assistance, continues until such a time as their eligibility can be redetermined on a non-MAGI Medicaid basis (see *generally* 42 CFR § 435.1200, 42 CFR § 435.930, 14 OHIP/LCM-2 effective as of December 1, 2014, GIS 16 MA/04 effective as of January 1, 2016).

Legal Analysis

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 December 5, 2016 listed an annual household income of \$21,456.00 and the eligibility determination relied upon that information.

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 \$11,880.00 for a one-person

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household. Since an annual household income of \$21,456.00 is 180.61% of the 2016 FPL, NYSOH properly found you to be eligible for the Essential Plan.

The second issue under review is whether NYSOH properly determined that you were not eligible to receive Medicaid through NYSOH.

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 \$21,456.00 is 180.61% of the 2016 FPL, NYSOH properly found you to be ineligible for MAGI-based Medicaid through NYSOH on an expected annual income basis, using the information provided in your application.

Therefore, since the December 6, 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.

The record indicates that you were previously receiving Medicaid through NYSOH. Individuals who are no longer eligible for MAGI-based Medicaid because they are receiving Medicare, over the age of 65 or have become certified disabled may qualify for Medicaid under non-MAGI standards. NYSOH is required to refer these individuals to their New York City HRA for redetermination of their Medicaid eligibility.

Once a case is referred, NYSOH and the HRA must ensure that an individual's Medicaid is maintained throughout the redetermination process to prevent any gaps in coverage. This includes maintaining an individual's coverage through their Medicaid Managed Care plan or their receipt of Medicaid Premium Assistance payments.

The record indicates that you are [REDACTED] and as such NYSOH should have referred you for an evaluation of your Medicaid eligibility under non-MAGI standards.

Therefore, your case is RETURNED to NYSOH to refer your case to [REDACTED] County HRA. NYSOH is directed to reinstate your Medicaid coverage and enrollment in Medicaid Managed Care Plan as of January 1, 2017 and to continue your coverage until your case can be properly transferred to [REDACTED] County HRA for a redetermination of your eligibility for Medicaid on a non-MAGI basis.

Decision

The December 6, 2016 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to refer your case to [REDACTED] County HRA.

NYSOH is directed to reinstate your Medicaid coverage as of January 1, 2017 and to continue your enrollment in Medicaid Managed Care Plan until your case can be properly transferred to [REDACTED] County HRA for a redetermination of your eligibility for Medicaid on a non-MAGI basis.

Effective Date of this Decision: March 22, 2017

How this Decision Affects Your Eligibility

Your case is being referred to [REDACTED] County HRA for consideration of your eligibility for non-MAGI-based Medicaid.

Your Medicaid coverage is reinstated as of January 1, 2017 and will continue until a redetermination of your eligibility can be made.

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 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.

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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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- By fax: 1-855-900-5557

Summary

The December 6, 2016 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to refer your case to your HRA.

Your case is being referred to your New York City Human Resources Administration for consideration of your eligibility for non-MAGI-based Medicaid.

Your Medicaid coverage is reinstated as of January 1, 2017 and will continue until a redetermination of your eligibility by your HRA can be made.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

