



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

Notice of Decision

Decision Date: January 12, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014298

[REDACTED]

Dear [REDACTED],

On January 12, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 24, 2016 eligibility determination notice and December 24, 2016 enrollment confirmation 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 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: January 12, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014298

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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 eligible to enroll in the Essential Plan effective February 1, 2017?

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

Did NY State of Health properly determine that your enrollment in an Essential Plan was effective February 1, 2017?

Procedural History

On December 23, 2016, you updated your application for financial assistance with health insurance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that you were eligible for the Essential Plan as of February 1, 2017.

Also on December 23, 2016, you contacted NY State of Health's (NYSOH) Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were not found eligible for coverage as of January 1, 2017.

On December 24, 2016, NYSOH issued a notice of eligibility determination, based on your December 23, 2016 application, stating that you were eligible to enroll in the Essential Plan, effective February 1, 2017.

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Also on December 24, 2016, NYSOH issued a notice of enrollment, based on your plan selection on December 23, 2016, stating that you were enrolled in an Essential Plan, and that your plan would start February 1, 2017.

On January 9, 2017, you faxed in documentation from your doctors requesting an expedited appeal because of your urgent medical issues.

On January 10, 2017, your request for an expedited hearing was granted.

On January 12, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the hearing. 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 testified that you are seeking insurance for yourself as of January 1, 2017.
- 2) You testified that this is because you have a number of medical issues that require urgent treatment.
- 3) You testified that you began working on September 13, 2016 and obtained employer-sponsored health insurance, effective December 1, 2016.
- 4) You testified that you were laid off by your employer on December 19, 2016.
- 5) You testified that your employer sponsored health insurance ended on December 31, 2016.
- 6) On January 9, 2017, a letter from your former employer dated January 9, 2017, was uploaded to your NYSOH account. This letter indicates that you were hired on September 13, 2016 and terminated on December 19, 2016.
- 7) The record reflects that you submitted an application to NYSOH for financial assistance on December 23, 2016.
- 8) The record reflects that you enrolled in an Essential Plan on December 23, 2016.

- 9) The application that was submitted on December 23, 2016 indicates that you expect to file your 2017 taxes with a tax filing status of married filing jointly. You confirmed that you file your taxes with a tax filing status of married filing jointly. You testified that you will claim no dependents on that tax return.
- 10) The application that was submitted on December 23, 2016, which requested financial assistance, listed annual household income of \$29,580.00. You testified that this amount was correct.
- 11) You testified that you do not have any current source of income for 2017. You testified that you have applied for unemployment insurance benefits and Social Security Disability benefits, however, you have not been awarded either.
- 12) You testified that you have not yet received any payments in January 2017. You testified that your final commission check from your former employer will be deposited to your account on January 13, 2017, and will be for a gross amount of \$300.00.
- 13) You testified that your spouse receives Social Security Disability and receives \$1,267.00 on the third Wednesday of each month. You testified that approximately \$100.00 per month is deducted for Medicare.
- 14) You testified that your spouse receives a pension of \$574.00 per month, which is paid on the first of each month.
- 15) You testified that your spouse works earning \$14.00 per hour for 10 hours per week for a gross of \$144.00 per week. You testified that your husband does not work every week, however, he did work the first week of January 2017.
- 16) You testified that you anticipate taking about \$500.00 in business deductions on your 2017 tax return.
- 17) You testified that your rent is \$1,400.00 and you requested that your living expenses be taken into account.

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

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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.

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 \$15,930.00 for a two-person household (80 Fed. Reg. 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

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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 \$16,020.00 for a two-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).

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied (42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see *also* 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were eligible for the Essential Plan, effective February 1, 2017.

The application that was submitted on December 23, 2016 listed an annual household income of \$29,580.00 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 rent, other living expenses, be considered when calculating your annual household income. Since the Internal Revenue Service rules do not allow living expenses such as rent to be deducted from the calculation of your adjusted gross income, they cannot be deducted when NYSOH computes your modified adjusted gross income. Therefore, NYSOH correctly determined your household income to be \$29,580.00.

You are in a two-person household. You expect to file your 2017 income taxes as married filing jointly 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 \$16,020.00 for a two-person household. Since \$29,580.00 is 184.64% of the 2016 FPL, NYSOH properly found you to be eligible for the Essential Plan.

The second issue is whether NYSOH properly determined that you were not eligible 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, the relevant FPL was \$16,020.00 for a two-person household. Since \$29,580.00 is 184.64% 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 testified that in January 2017, your household income will consist of your spouse's gross Social Security Disability payment of \$1,367.00; your spouse's pension payment of \$574.00; your final pay from your former employer of

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\$300.00; and income your spouse earns from work which will be a gross of at least \$144.00. This yields a total gross monthly income for January 2017 of \$2,385.00.

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 \$1,843.00 per month. Since the testimony you provided shows that your household income is \$2,385.00 in January 2017 you do not qualify for Medicaid on the basis of monthly income.

Since the December 24, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible for the Essential Plan, it was correct and is AFFIRMED.

The third issue is whether NYSOH properly determined that your enrollment in the Essential Plan was effective February 1, 2017.

You testified, and the record indicates, that you submitted your NYSOH application on December 23, 2016. As a result, you were found eligible for the Essential Plan as of February 1, 2017 and enrolled into a plan that day.

The date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

On December 23, 2016, you selected an Essential Plan, so your enrollment properly took effect on the first day of the second month following December 2016; that is, on February 1, 2017.

Therefore, the December 24, 2016 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective February 1, 2017, is correct and must be AFFIRMED.

Decision

The December 24, 2016 eligibility determination is AFFIRMED.

The December 24, 2016 enrollment confirmation is AFFIRMED.

Effective Date of this Decision: January 12, 2017

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How this Decision Affects Your Eligibility

This decision does not change your eligibility.

The effective date of your Essential Health Plan is February 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 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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

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Summary

The December 24, 2016 eligibility determination is AFFIRMED.

The December 24, 2016 enrollment confirmation is AFFIRMED.

This decision does not change your eligibility.

The effective date of your Essential Health Plan is February 1, 2017.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

