



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: AP000000014366

[REDACTED]

Dear [REDACTED],

On March 1, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 28, 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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Decision

Decision Date: March 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014366

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that you were not eligible for Medicaid, as of December 27, 2016?

Procedural History

On December 27, 2016, you submitted a financial assistance application through NYSOH. NYSOH rendered a preliminary eligibility determination stating, in relevant part, that you were not eligible to purchase health coverage.

Also on December 27, 2016, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as you were seeking to be found eligible for Medicaid through NYSOH.

On December 28, 2016, NYSOH issued an eligibility determination notice stating that you were not eligible for Medicaid either because you were 65 years of age or older, or because state and federal data sources showed that you were receiving Medicare and were not a parent caretaker relative of a child younger than 19 years of age.

On March 1, 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.

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Findings of Fact

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

- 1) You submitted an application for financial assistance for yourself on December 27, 2016.
- 2) As of your December 27, 2016 application, you were 64 years old.
- 3) You testified you want to be found eligible for Medicaid through NYSOH.
- 4) According to your NYSOH account, you expect to file a 2016 federal income tax return, with the tax status of single, and claim no dependents. At first you testified that this was accurate, but then later amended your testimony insofar as you intend to claim your [REDACTED] as a dependent.
- 5) You testified that you are issued approximately \$1,500.00 per month in Social Security Disability Insurance benefits.
- 6) According to your NYSOH account, you do not expect to claim any deductions on your 2016 federal income tax return.
- 7) You testified that you have been enrolled in Medicare Parts A and B since June 1, 2016.
- 8) You live in [REDACTED] County, New York.
- 9) You testified that you were seeking to be found eligible for Medicaid through NYSOH since your Medicare benefits do not include dental insurance coverage.

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

Applicable Law and Regulations

MAGI 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

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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)).

Caretaker relative is a relative of a dependent child by blood, adoption, or marriage with whom the child is living, who assumes primary responsibility for the child's care (42 CFR § 435.4).

Dependent child is under the age of 18, or is age 18 and a full-time student in secondary school, if before attaining age 19 the child may reasonably be expected to complete such school or training (42 CFR § 435.4).

Non-MAGI Medicaid

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 Local Department of Social Services or the Human Resources Administration. 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 issue under review is whether NYSOH properly determined that you were not eligible for Medicaid as of December 27, 2016.

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

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Medicare Parts A or B; pregnant women or infants; children between the ages of 1 and 18; and parent or caretaker relatives.

According to the credible record, you have been enrolled in Medicare Parts A and B since June 1, 2016, and while you testified that you may be claiming your [REDACTED] as a dependent on your 2016 tax return, you are not a parent or a caretaker relative of a dependent child to meet the nonfinancial criteria to be considered for MAGI Medicaid.

Therefore, the December 28, 2016 eligibility determination is AFFIRMED insofar as determining you not eligible for Medicaid through NYSOH.

During your hearing, you confirmed that you eligible for and currently enrolled in Medicare Part A and B. Individuals who are not eligible for MAGI Medicaid may qualify for Medicaid under non-MAGI standards. NYSOH is required to refer these individuals to their New York City Human Resources Administration (HRA) for redetermination of their Medicaid eligibility.

Since you live in [REDACTED] County, your case is RETURNED to NYSOH to be referred to HRA to determine your eligibility for Medicaid on a non-MAGI basis.

Decision

Therefore, the December 28, 2016 eligibility determination is AFFIRMED insofar as determining you not eligible for Medicaid through NYSOH.

Your case is RETURNED to NYSOH to be referred to HRA to determine your eligibility for Medicaid on a non-MAGI basis.

Effective Date of this Decision: March 3, 2017

How this Decision Affects Your Eligibility

You were not eligible for Medicaid through NYSOH as of December 27, 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.

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

Summary

Therefore, the December 28, 2016 eligibility determination is AFFIRMED insofar as determining you not eligible for Medicaid through NYSOH.

You were not eligible for Medicaid through NYSOH as of December 27, 2016.

Your case is RETURNED to NYSOH to be referred to HRA to determine your eligibility for Medicaid on a non-MAGI basis.

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:

