



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

Notice of Decision

Decision Date: February 2, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014658

[REDACTED]

Dear [REDACTED],

On January 31, 2017, your spouse appeared by telephone at an expedited hearing on your appeal of NY State of Health's January 6, 2017 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: February 2, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014658



Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine that you and your spouse were eligible for the Essential Plan, effective February 1, 2017?

Did NYSOH properly determine that your and your spouse's enrollment in your Essential Plan coverage would begin on February 1, 2017?

Did NYSOH properly determine that you and your spouse were not eligible for Medicaid as of your January 5, 2017 application?

Procedural History

On October 25, 2015, NYSOH issued a renewal notice stating that it was time to renew your NYSOH coverage. The notice stated that you and your spouse were still qualified to get health coverage under Medicaid, effective January 1, 2016, based on information available from state and federal data sources. However, you needed to select a new plan.

On October 13, 2016, NYSOH issued a notice that it was time to renew your health insurance for 2017. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you and your spouse would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2016 or you might lose the financial assistance you and your spouse were currently receiving.

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No updates were made to your account by December 15, 2016.

On December 19, 2016, NYSOH issued an eligibility determination notice stating that, effective January 1, 2017, you and your spouse were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame.

Also on December 19, 2016, NYSOH issued a notice stating that your coverage, and your spouse's coverage, in your MVP Medicaid Managed Care (MMC) plan was ending effective December 31, 2016 because you were no longer eligible to enroll in health insurance through NYSOH.

On January 5, 2017, NYSOH received several updates to your application for health insurance. That day, a preliminary eligibility determination was prepared with regard to the last application, stating that you and your spouse were eligible to enroll in Essential Plan coverage, with a \$20.00 monthly premium each, effective February 1, 2017.

Also on January 5, 2017, you contacted NYSOH's Account Review Unit and requested an expedited appeal of that preliminary eligibility determination, insofar as your coverage began on February 1, 2017, and not January 1, 2017.

On January 6, 2017, NYSOH issued an eligibility determination notice based on the information contained in the January 5, 2017 application, stating that you and your spouse were eligible to enroll in the Essential Plan with a monthly premium of \$20.00 each, effective February 1, 2017.

Also on January 6, 2017, NYSOH issued a notice of enrollment confirmation, confirming your and your spouse's enrollment in an MVP Essential Plan, with a plan start date of February 1, 2017.

On January 25, 2017, your request for an expedited appeal was approved.

On January 31, 2017, your spouse had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, the issue of whether your spouse should have been eligible for Medicaid instead of the Essential Plan was added as a second issue, and testimony was taken with regard to this matter. 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) Your spouse testified that she is not sure if she needs to have Medicaid coverage instead of the Essential Plan in order to have her medical treatment covered, so she wanted to have the appeals process to address her eligibility for financial assistance, as well as the start date of her coverage.
- 2) Your spouse testified that you expect to file your 2017 taxes with a tax filing status of married filing jointly. You will claim no dependents on that tax return.
- 3) The application that was submitted on January 5, 2017 listed annual household income of \$28,160.00, consisting of \$9,960.00 you receive in Title II benefits, and \$18,200.00 in earned income for your husband. Your spouse testified that she believes this amount was correct.
- 4) Your spouse testified that your gross monthly income for January 2017 will be about \$2,080.00, based on an hourly wage of \$13.00, and a 40-hour work week.
- 5) Your spouse testified that her gross monthly income in January 2017 will be \$840.00 in Social Security Disability benefits, and \$159.00 from a pension, for a total of \$999.00 in monthly income for January.
- 6) Your application states that you will not be taking any deductions on your 2017 tax return, and your spouse testified that this is correct.
- 7) Your application states that you live in Sullivan County.
- 8) Your spouse testified that neither of you expected your Medicaid coverage to end at the end of December 2016 because your MVP MMC plan card said that it was good until February 2017.
- 9) Your spouse testified that neither of you knew that you had a NYSOH account until after she was informed at a [REDACTED] appointment in January 2017 that her Medicaid coverage had ended on December 31, 2016.
- 10) Your spouse testified that, as far as she knew, her Medicaid coverage had always been through Sullivan County Department of Social Services (DSS). She testified that she called her DSS caseworker, a [REDACTED], in early January 2017, and was told that her case had been transferred to NYSOH, but DSS did not know why.

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- 11) Your spouse testified that [REDACTED] gave her a telephone number for NYSOH, which she called. She testified that a NYSOH representative informed her that her Medicaid case was no longer active because she did not fill out some kind of form.
- 12) Your spouse testified that you never received any form from NYSOH, nor had you ever received any mail from NYSOH previously.
- 13) Your spouse testified that neither of you had ever accessed your NYSOH account because you did not know until January 2017 that you had a NYSOH account.
- 14) Prior to January 5, 2017, when you updated your NYSOH account, the only changes made to your NYSOH account that were not initiated by NYSOH's systems were changes made on December 22, 2014 by someone with the username "[REDACTED]."
- 15) Your NYSOH account lists a "[REDACTED]" as an Account Representative. She is listed as an [REDACTED] with MVP Health Care.
- 16) Your spouse testified that she is unfamiliar with the name [REDACTED], and that she does not recall ever receiving any assistance with her Medicaid application from anyone at MVP Health Care.
- 17) Your NYSOH account reflects that the October 2015 and October 2016 renewal notices were both returned to NYSOH by the Post Office as undeliverable mail (Documents [REDACTED] and [REDACTED]).
- 18) Your spouse testified that your mailing address changed from [REDACTED] to [REDACTED] approximately one and a half years ago.
- 19) Your spouse testified that, when your mailing address changed, she called and left a message with [REDACTED] at DSS, and that she assumes the address change was made because you received your MVP MMC plan cards at your new address after that.
- 20) Your spouse testified that you updated your NYSOH account in early January 2017, shortly after you both found out that you had a NYSOH account.
- 21) Your spouse testified that she has outstanding chemotherapy and other treatment bills from the month of January 2017.

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 \$16,020.00 for a two-person household (80 Federal Register 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

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)).

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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 Federal Register 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).

Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every twelve months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR § 155.335(h)).

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)).

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Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your spouse were eligible to enroll in Essential Plan coverage, effective February 1, 2017.

The application filed on January 5, 2017 listed an expected annual household income of \$28,160.00, and that January 6, 2017 eligibility determination was based on that information.

You are in a two-person 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 an annual household income of 28,160.00 is 175.78 % of the 2016 FPL, NYSOH properly found you and your spouse to be eligible for the Essential Plan, as of your January 5, 2017 application.

The second issue under review is whether NYSOH properly determined that you and your spouse were not eligible for Medicaid, as of your January 5, 2017 application.

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 (MAGI) 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 \$28,160.00 is 175.78% of the 2016 FPL, NYSOH properly found you and your spouse to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

Your spouse testified during the hearing that you will earn approximately \$2,080.00 in the month of January 2017, based on an hourly wage of \$13.00 and a 40-hour work week, and that she will receive \$159.00 from her pension, and \$840.00 in Social Security Disability benefits. This is a total of \$3,079.00 in household income for the month of January 2017.

To be eligible for Medicaid, you and your spouse would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is

\$1,842.30 per month. Since, based on your testimony, your household will have \$3,079.00 in income in the month of January 2017, you and your spouse do not qualify for Medicaid on the basis of monthly income as of the date of your application.

The third issue under review is whether NYSOH properly determined that you and your spouse's eligibility for, and enrollment in, your Essential Plan coverage is effective February 1, 2017.

According to your NYSOH account, you and your spouse were re-enrolled into Medicaid coverage as of January 1, 2016.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's October 13, 2016 renewal notice stated that there was not enough information to determine whether you and your spouse were eligible to continue your financial assistance for health insurance, and that you needed to update your application by December 15, 2016, or your financial assistance might end.

Because there was no timely response to this notice, you and your spouse were terminated from your Medicaid and MMC coverage as of December 31, 2016.

The record indicates, that you updated your NYSOH application on January 5, 2017. As a result, you and your spouse 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 January 5, 2017, you selected an Essential Plan, so, ordinarily, you and your spouse's enrollment would properly take effect on the first day of the first month following January; that is, on February 1, 2017.

However, during the hearing, your spouse credibly testified that neither of you had any idea that you had Medicaid through NYSOH, and that she had been dealing solely with a caseworker through your local DSS. This testimony is made more convincing by the fact that there do not seem to be any actions in your NYSOH account initiated by you or your spouse. The only action initiated by anyone other than NYSOH was an update made by [REDACTED] in December of

2014. This username presumably belongs to [REDACTED], an MVP Health Care [REDACTED] who is listed as your Account Representative beginning December 2013. Your spouse credibly testified that, while you both knew you had MVP coverage, she did not know [REDACTED], and did not recall ever receiving any assistance with her Medicaid applications from anyone at MVP Health Care.

The October 2015 and October 2016 renewal notices that were issued from your NYSOH account were both returned to NYSOH as undeliverable by the Post Office. Your spouse testified that your mailing address changed approximately a year and a half ago, and that she notified DSS at the time that it changed. The fact that your address was never updated with NYSOH until you updated your account on January 5, 2017 is consistent with your spouse's testimony that neither of you had any idea that you had a NYSOH account, nor that you needed to renew your coverage through NYSOH.

As such, it is concluded that your failure to renew your NYSOH application for the 2017 year was due to no fault of your own, and that you were unaware of the need to complete such a renewal.

You first updated your NYSOH account on January 5, 2017, and therefore we must assume that this is the information you would have provided had you been made timely aware of the need to renew your application.

Therefore, the January 6, 2017 eligibility determination is **AFFIRMED IN PART**, insofar as you and your spouse are eligible for the Essential Plan, and **MODIFIED IN PART** to state that you and your spouse are eligible for the Essential Plan as of January 1, 2017.

The January 6, 2017 enrollment confirmation notice is **MODIFIED** to state that your enrollment, and your spouse's enrollment, in your Essential Plan began on January 1, 2017.

You are responsible for any premium payments for yourself and your spouse for the month of January 2017.

Decision

The January 6, 2017 eligibility determination is **AFFIRMED IN PART**, insofar as you and your spouse are eligible for the Essential Plan, and not eligible for Medicaid, and **MODIFIED IN PART**, insofar as your and your spouse's eligibility for Essential Plan coverage should have been effective as of January 1, 2017.

The January 6, 2017 enrollment confirmation notice is MODIFIED to state that your enrollment, and your spouse's enrollment, in your Essential Plan coverage began as of January 1, 2017.

Your case is RETURNED to NYSOH to facilitate your and your spouse's enrollment into your Essential Plan coverage as of January 1, 2017.

Effective Date of this Decision: February 2, 2017

How this Decision Affects Your Eligibility

You and your spouse are eligible for the Essential Plan.

You and your spouse are not eligible for Medicaid.

Your and your spouse's eligibility for, and enrollment in, your Essential Plan coverage should have started as of January 1, 2017.

Your case is being sent back to NYSOH to backdate your and your spouse's enrollment in your Essential Plan to January 1, 2017.

You will be responsible for premiums for your Essential Plan coverage for the month of January 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

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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 January 6, 2017 eligibility determination is **AFFIRMED IN PART**, insofar as you and your spouse are eligible for the Essential Plan, and not eligible for Medicaid, and **MODIFIED IN PART**, insofar as your and your spouse's eligibility for Essential Plan coverage should have been effective as of January 1, 2017.

The January 6, 2017 enrollment confirmation notice is **MODIFIED** to state that your enrollment, and your spouse's enrollment, in your Essential Plan coverage began as of January 1, 2017.

Your case is **RETURNED** to NYSOH to facilitate your and your spouse's enrollment into your Essential Plan coverage as of January 1, 2017.

You and your spouse are eligible for the Essential Plan.

You and your spouse are not eligible for Medicaid.

Your and your spouse's eligibility for, and enrollment in, your Essential Plan coverage should have started as of January 1, 2017.

Your case is being sent back to NYSOH to backdate your and your spouse's enrollment in your Essential Plan to January 1, 2017.

You will be responsible for premiums for your Essential Plan coverage for the month of January 2017.

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:

