



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

Notice of Decision

Decision Date: May 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015369

[REDACTED]

Dear [REDACTED],

On April 28, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 19, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: May 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015369



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 your spouse was eligible to purchase a qualified health plan at full cost through NYSOH, and not eligible for Medicaid, Child Health Plus, the Essential Plan, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance, effective January 1, 2017?

Procedural History

On April 27, 2015, you updated your spouse's application for financial assistance with health insurance.

On April 28, 2015, NYSOH issued a notice of eligibility determination stating that your spouse was eligible for Medicaid, effective April 1, 2015.

On April 29, 2015, NYSOH issued a notice of enrollment confirmation stating that your spouse's coverage through Medicaid would begin April 1, 2015 and that his enrollment in his Medicaid Managed Care plan would begin on June 1, 2015.

On February 16, 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 your spouse would qualify for financial help paying for his health coverage, and that you needed to update your account by March 15, 2016 or he might lose the financial assistance he was currently receiving.

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

On March 16, 2016, NYSOH redetermined your spouse's eligibility for financial assistance with health insurance.

On March 17, 2016, NYSOH issued an eligibility determination notice stating that your spouse was not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. He 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 his renewal within the required time frame. His eligibility ended March 31, 2016.

Also on March 17, 2016, NYSOH issued a disenrollment notice stating that your spouse's enrollment in his Medicaid Managed Care plan would end, effective March 31, 2016.

On July 6, 2016, you updated your spouse's application for financial assistance with health insurance.

On July 7, 2016, NYSOH issued a notice of eligibility determination stating that your spouse was eligible to receive advance premium tax credits (APTC) of up to \$319.00 per month as well as cost-sharing reductions if he selected a silver level qualified health plan for enrollment. This notice stated that your spouse did not qualify for Medicaid through NYSOH because your spouse is 65 years of age or older, or because state and federal data sources show that your spouse was receiving Medicare and was not a parent or caretaker relative of a child younger than 19 years of age.

On July 7, 2016, NYSOH issued a notice of enrollment confirmation stating that your spouse's enrollment in his silver level qualified health plan as well as his dental plan was effective August 1, 2016, and that his APTC would be applied to his monthly premium effective August 1, 2016.

On August 16, 2016, NYSOH issued a cancellation notice advising that your spouse's enrollment in his silver level qualified health plan was cancelled effective August 1, 2016 for failure to pay premiums.

On October 15, 2016, NYSOH issued a notice that it was time to renew your spouse's 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 he would qualify for financial help paying for his health coverage, and that you needed to update your account by December 15, 2016 or he might lose the financial assistance he was currently receiving.

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

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On November 27, 2016, NYSOH issued a disenrollment notice stating that your spouse's enrollment in his dental plan would end on December 31, 2016.

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

On January 31, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it found your spouse was not eligible to receive financial assistance with health insurance.

On April 27, 2017, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date.

On April 28, 2017, you had an adjourned 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, and your NYSOH account indicates, that you receive notices from NYSOH by regular mail.
- 2) You testified that you might have received notices from NYSOH telling you that you needed to update the information in your NYSOH account to ensure that your spouse's coverage would not be interrupted and that his financial assistance would continue, but you may have overlooked the notice.
- 3) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 4) You testified that you are not sure if you selected to have NYSOH automatically renew your spouse's coverage or if you granted NYSOH permission to pull information regarding your tax returns in order to automatically redetermine your spouse's eligibility for financial assistance for the upcoming coverage year.

- 5) The application that was submitted on July 6, 2016 indicates that you did not select automatic renewal of coverage.
- 6) On December 18, 2016, NYSOH redetermined your spouse's eligibility for health insurance through NYSOH.
- 7) You testified that you expected to file your 2017 taxes with a tax filing status of married filing jointly. You will claim one dependent on that tax return.
- 8) You testified that you and your spouse claim your nephew as a dependent. You explained that your nephew has been certified as disabled by the Social Security Administration. You testified that your nephew was born in [REDACTED].
- 9) You testified that no individuals under the age of [REDACTED] reside with you and your spouse.
- 10) You are seeking financial assistance with health insurance for your spouse.
- 11) You testified that your spouse is not enrolled in Medicare and that you are not sure if your spouse is eligible for Medicare.
- 12) You testified, and the record reflects, that your spouse's date of birth is [REDACTED] and that he is currently [REDACTED] years old.
- 13) You testified that your spouse is a natural born citizen.
- 14) You testified that your spouse has no source of income, and that he is not receiving Unemployment Insurance Benefits, Social Security Benefits, or a pension.
- 15) You testified that your only source of income is your employment. You further testified that you have one job and that you are paid on a biweekly basis. You testified that you earn \$17.65 per hour were hired to work between 20 hours per week, and that you never work more than 28 hours per week.
- 16) The application that you submitted on July 6, 2016 listed annual household income of \$20,410.00.
- 17) You testified that your spouse has not applied for Medicaid through your Local Department of Social Services.
- 18) Your application states, and you confirmed, that you live in Erie County.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

When NYSOH does not have an active authorization to obtain tax data as part of the annual redetermination process, NYSOH must redetermine the applicant's eligibility only for enrollment in a qualified health plan (45 CFR §155.335(l)). NYSOH may not proceed with a redetermination for insurance affordability programs until such authorization has been obtained or the application completes their request for an eligibility determination for insurance affordability programs (45 CFR §155.335(l)).

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage

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except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

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).

Medicaid

An individual is eligible for enrollment in Medicaid through NYSOH (called MAGI-based Medicaid) when he or she meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard (45 CFR § 155.305(c); N.Y. Soc. Serv. 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)).

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)).

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 \$22,108.00 for a two-person household (81 Fed. Reg. 4036).

Legal Analysis

The issue under review is whether NYSOH properly determined that your spouse was eligible to purchase a qualified health plan at full cost through NYSOH, and not eligible for Medicaid, Child Health Plus, the Essential Plan, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance, effective January 1, 2017.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual's projected eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On October 15, 2016, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not your spouse would qualify for financial help with paying for his health coverage. You were asked to update the information in your account by December 15, 2016 or the financial help he was receiving might end.

Because there was no timely response to this notice, NYSOH redetermined your spouse's eligibility for financial assistance on December 18, 2016.

You testified that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, the record reflects that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated in order to ensure your enrollment in your health plan and eligibility for financial assistance would continue.

The record reflects that when you updated your account on July 6, 2016, you selected to not have your spouse's eligibility for financial assistance automatically redetermined.

When NYSOH does not have active authorization to obtain tax data as part of the annual redetermination process, NYSOH may not proceed with a redetermination for insurance affordability programs and must redetermine the applicant's eligibility only for enrollment in a qualified health plan.

Therefore, the December 19, 2016 eligibility determination notice is AFFIRMED.

However, according to your testimony, your expected annual household income appears to fall within Medicaid limits.

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

According to your testimony, you and your spouse claim your adult disabled nephew as a dependent, but no children reside with you and your spouse, therefore, your spouse is not a parent or a caretaker relative of a dependent child.

The record reflects that, at the time NYSOH issued the December 19, 2016 eligibility determination your spouse was [REDACTED].

NYSOH does not have the authority to determine whether or not your spouse qualifies for non-MAGI-based Medicaid. That authority lies with the Local Department of Social Services.

During the hearing, you testified that your spouse has not applied for non-MAGI-based Medicaid through your Local Department of Social Services. Since he may be eligible for Medicaid on a non-MAGI basis, NYSOH will refer your case to the Local Department of Social Services for consideration.

Your case is RETURNED to NYSOH to refer your case to Erie County LDSS.

Decision

The December 19, 2016 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to refer your case to Erie County LDSS.

Effective Date of this Decision: May 5, 2017

How this Decision Affects Your Eligibility

Your spouse remains eligible to purchase a qualified health plan at full cost through NYSOH.

NYSOH does not have the authority to decide if your spouse qualifies for non-MAGI Medicaid.

Your case is being referred to your Local Department of Social Services for consideration of your spouse's eligibility for non-MAGI-based Medicaid.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace 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 Federal Marketplace. 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 have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

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).

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

The December 19, 2016 eligibility determination notice is AFFIRMED.

Your spouse remains eligible to purchase a qualified health plan at full cost through NYSOH.

NYSOH does not have the authority to decide if your spouse qualifies for non-MAGI Medicaid.

Your case is RETURNED to NYSOH to refer your case to Erie County LDSS.

Your case is being referred to your Local Department of Social Services for consideration of your spouse's eligibility for non-MAGI-based Medicaid.

Legal Authority

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

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye b&etumi ama wo obi a okyer& kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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