



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

Notice of Decision

Decision Date: July 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016173



Dear [REDACTED]

On June 1, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 17, 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 number 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: July 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016173



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 health insurance coverage?

Procedural History

On April 10, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to for Medicaid, effective April 1, 2016.

Also on April 10, 2016, NYSOH issued an enrollment notice stating that the type of Medicaid coverage you were eligible for does not require/allow you to enroll in a health plan.

On February 3, 2017, NYSOH issued a notice that it was time to renew your health insurance. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account between February 16, 2017, and March 15, 2017. If you don't update your account by March 15, 2017, your financial assistance may end.

On February 9, 2017, your NYSOH account was updated.

On February 10, 2017, NYSOH issued an eligibility determination notice stating that you were conditionally eligible for Medicaid, effective as of February 1, 2017. The notice directed you to submit additional proof of income by February 24, 2017.

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On February 16, 2017, your NYSOH account was updated.

On February 17, 2017, NYSOH issued a notice of eligibility determination stating that you did not qualify for: Medicaid through NYSOH; the Essential Plan; tax credits or cost-sharing reductions, and to enroll in a qualified health plan, effective as of April 1, 2017. The notice stated that you did not qualify for health insurance through NYSOH because federal and state data sources indicated that you were receiving Medicare.

On February 23, 2017, you contacted NYSOH's Account Review Unit and requested an appeal insofar as being determined ineligible for health insurance through NYSOH.

On June 1, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, and the record the record was left open until June 2, 2017, to allow you to submit additional documentation to NYSOH's Appeals Unit.

On June 2, 2017, you faxed fifteen-pages of documents to NYSOH's Appeals Unit. That fax has been incorporated into the record. The record is now complete and closed.

Findings of Fact

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

- 1) According to your NYSOH account and testimony, you are applying for health insurance for yourself.
- 2) You testified you expect to file your 2017 federal income tax return, with the tax status of single, and do not expect to claim any dependents on that return.
- 3) You testified that you have been enrolled in Medicare Parts A and B since 2007.
- 4) On May 1, 2016, NYSOH issued a notice stating that you were eligible to receive reimbursement for your Medicare Part B premiums, effective April 1, 2016 [REDACTED]; uploaded 06/21/2016).
- 5) You testified that you receive monthly payments of \$922.00 in Social Security Disability Insurance benefits and \$999.97 from Long-Term Disability insurance.

- 6) According to your NYSOH account, you reside in [REDACTED], New York.
- 7) You testified that you have not applied for health insurance or received any eligibility determination from the Human Resources Administration (HRA).
- 8) On February 23, 2017, you submitted a complaint to NYSOH [REDACTED]. The complaint alleges that a certified application counselor (CAC) committed fraud by adding a dependent to your NYSOH account in April 2016.
- 9) You testified that you wanted to make clear, on the record, that you did not commit fraud in April 2016.

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

Applicable Law and Regulations

Qualified Health Plan

It is unlawful for a person to sell or issue to an individual, entitled to benefits under Medicare Part A or enrolled under Medicare Part B, a health insurance policy with the knowledge that the policy duplicates health benefits to which the individual is otherwise entitled to be enrolled in (42 U.S. Code § 1395ss(d)(3)(A); https://www.cms.gov/Medicare/Eligibility-and-Enrollment/Medicare-and-the-Marketplace/Downloads/Medicare-Marketplace_Master_FAQ_4-28-16_v2.pdf (last updated April 28, 2016)).

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).

Minimum essential coverage includes most government-sponsored insurance plans such as Medicaid, Medicare, CHIP, Tricare, Veterans' Health

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Coverage, and eligible employer-sponsored insurance (26 USC §§ 36B(c)(2)(B) and 5000A(f)).

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)).

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 you were properly determined ineligible for health insurance through NYSOH.

The sale or issuance of duplicate health insurance coverage to Medicare beneficiaries, including health plans through NYSOH, is prohibited. You credibly testified that you have been enrolled in Medicare Parts A and B since 2007. Therefore, you were not eligible to enroll in a qualified health plan at full cost through NYSOH.

The Essential Plan is available to individuals who are not otherwise eligible for minimum essential coverage. Various government-sponsored plans provide minimum essential coverage, including Part A of the Medicare program. Again, since you credibly testified that you have been enrolled in Medicare Parts A and B since 2007, you were not eligible to enroll in the Essential Plan because you were enrolled in minimum essential coverage.

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.

The record reflects that when NYSOH issued the February 17, 2017 eligibility determination, you were eligible for and enrolled in Medicare Parts A and B. Furthermore, the record reflects that you have no dependents and, therefore, are not a parent or a caretaker relative of a dependent child.

Since you were enrolled in Medicare and not a parent or caretaker relative, NYSOH properly determined that you were not eligible for Medicaid through NYSOH.

Therefore, you were properly determined that you were not eligible to enroll in health insurance through NYSOH, and the February 17, 2017 eligibility determination notice is AFFIRMED.

However, 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 the New York City Human Resources Administration (HRA) for redetermination of their Medicaid eligibility.

Once a case is referred, NYSOH and 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 Medicaid coverage and their receipt of Medicaid Premium Assistance payments.

You testified that you have not applied health insurance or received any eligibility determination from HRA. Furthermore, the record supports that you were receiving reimbursement for your Medicare Part B premiums, effective April 1, 2016.

Your case is RETURNED to NYSOH to refer your case to HRA and to ensure continuation of your Medicaid fee-for-service coverage and Medicaid Premium Assistance payments. Furthermore, your coverage shall continue until your case can be properly transferred to HRA for a redetermination of your eligibility for Medicaid on a non-MAGI basis.

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In addition, your raised concerns that a certified application counselor committed fraud on your NYSOH account in 2016, you can contact NY Office of the Medicaid Inspector General at 1-877-873-7283; or you can file a fraud allegation at <https://omig.ny.gov/fraud/file-an-allegation>.

Decision

The February 17, 2017, eligibility determination is AFFIRMED.

Your case is RETURNED to NYSOH to refer your case to HRA for a redetermination of your eligibility for Medicaid on a non-MAGI basis. NYSOH shall ensure continuation of your Medicaid fee-for-service coverage and Medicaid Premium Assistance payments until a determination is rendered.

Effective Date of this Decision: July 3, 2017

How this Decision Affects Your Eligibility

You are not eligible for health insurance through NYSOH.

NYSOH shall continue your Medicaid coverage until your case can be properly transferred to HRA for a redetermination of your eligibility for Medicaid on a non-MAGI basis.

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

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).

- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

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 February 17, 2017, eligibility determination is **AFFIRMED**.

You are not eligible for health insurance through NYSOH.

Your case is **RETURNED** to NYSOH to refer your case to HRA for a redetermination of your eligibility for Medicaid on a non-MAGI basis.

NYSOH shall continue your Medicaid coverage until your case can be properly transferred to HRA for a redetermination of your eligibility for Medicaid on a non-MAGI basis.

Legal Authority

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

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).

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。我们可以为您免费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)

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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. y&b&tumi ama wo obi a okyerE 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.

שׂוֹדִישׁ (Yiddish)

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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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