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

Notice of Decision

Decision Date: June 27, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000016335

[redacted]

Dear [redacted],

On June 15, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 1, 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).

This page intentionally left blank.

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).

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

Decision

Decision Date: June 27, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000016335

[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 to receive Medicaid or the Essential Plan through NYSOH, as of March 1, 2017?

Procedural History

On September 7, 2016, NYSOH issued an eligibility determination notice stating that you were eligible for the Essential Plan with no monthly premium, effective October 1, 2016. This was because your household income was below the allowable income limit, and because you were in the first five years of your qualified immigration status or living in the United States under the color of law.

On January 22, 2017, NYSOH's system redetermined your eligibility for financial assistance with health insurance.

On January 23, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost through NYSOH, effective March 1, 2017. The notice stated that you were not eligible for the Essential Plan or Medicaid because you must be under [redacted] years of age to qualify OR NYSOH's system showed that you were receiving Medicare. Lastly, the notice stated that your information would be sent to your local Department of Social Services (LDSS) to determine your eligibility for Medicaid on a different basis and, when your Essential Plan coverage ended, your health

insurance would be continued through Fee-For-Service Medicaid through LDSS, until they made a decision regarding your eligibility.

Also on January 23, 2017, NYSOH issued a disenrollment notice stating that your enrollment in your Essential Plan would end, effective February 28, 2017.

On February 28, 2017, you updated your application for financial assistance. That day, NYSOH prepared a preliminary eligibility determination stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective April 1, 2017.

Also on February 28, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination, insofar as you were not eligible for Medicaid or other no cost health insurance.

On March 1, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a qualified health plan at full cost through NYSOH. The notice further stated that you were not eligible for the Essential Plan or Medicaid because you must be under 65 years of age to qualify OR you were receiving Medicare.

On June 15, 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.

Findings of Fact

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

1) Your NYSOH account reflects that you expect to file your 2017 taxes with a tax filing status of single. You will claim no dependents on that tax return.

2) Your NYSOH account reflects that you turned [redacted] old on [redacted], and you confirmed this in your testimony.

3) You testified that you have no income, and are supported by family.

4) You testified that you are a "Green Card" holder, and your NYSOH account reflects that you are an Immigrant Non-Citizen with an I-551 Permanent Resident Card.

5) You testified that you had coverage through Healthfirst that expired on February 28, 2017.

6) Your NYSOH account reflects that you had coverage through the Essential Plan, with no monthly premium, from January 1, 2016 through February 28, 2017.

7) You testified that you have not had health insurance coverage since February 28, 2017.

8) You testified that you tried to get Medicare coverage, but were told that you are not eligible because you are not a United States citizen.

9) You testified that you have applied for Medicaid at a Medicaid office in Elmhurst, NY. You testified that you received a letter from the Human Resources Administration (HRA) stating that they needed you to submit a new copy of your Green Card, and you went to an office in Brooklyn last week to submit another copy.

10) You testified that you believe you have a pending Medicaid application with this Medicaid office, but that you are not sure when the application process started, though it was sometime in 2017.

11) Notes in Incident #[redacted] entered on April 18, 2017 state, "Appellant currently has active coverage through LDSS, which will end on 5/31/2017."

12) Your application states that you live in Bronx County.

13) You testified that you are looking to be eligible for Medicaid because you have no income and cannot afford to pay for health insurance.

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).

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).

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); 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); NY Social Services 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* NY Social Services 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).

Qualified Immigrants

In NY State, qualified immigrants who were formerly eligible for Medicaid through the state, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of January 1, 2016 (New York's Basic Health Plan Blueprint, p. 19, as approved January 2016; see https://www.medicaid.gov/basic-health-program/basic-health-program.html). This category of qualified immigrants

includes individuals lawfully admitted for permanent residence in the United States who are still in their first five years of permanent residency. (18 NYCRR § 349.3, 8 USC § 1613).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were not eligible to receive Medicaid, or the Essential Plan at no cost, through NYSOH.

Your NYSOH account reflects that you began receiving the Essential Plan at no cost through NYSOH as of January 1, 2016. Though you were financially eligible for Medicaid at that time based on $0.00 in household income, you were not eligible for Medicaid because you were in your first five years of permanent residency. Beginning January 1, 2016, immigrants with this status were no longer eligible for Medicaid and were transitioned to the Essential Plan.

However, on January 22, 2017, NYSOH redetermined your eligibility and determined that you would no longer be eligible for the Essential Plan, effective March 1, 2017. This was because you were turning [redacted] old on [redacted]. Individuals who are [redacted] age or older are not eligible for the Essential Plan.

You were also determined not eligible for Medicaid. 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 and the information in your NYSOH application, you are single with no dependents and, therefore, you are not a parent or a caretaker relative of a dependent child.

Additionally, on [redacted], you turned [redacted] old. Therefore, since you are over the allowable age limit for MAGI-based Medicaid, and not a parent or caretaker relative, NYSOH properly determined that you are not eligible for Medicaid through NYSOH. Additionally, even if you were not over [redacted], so long as you are in the first five years of your permanent residency status, you will not be eligible for Medicaid through NYSOH.

However, individuals who are no longer eligible for MAGI-based Medicaid because they are receiving Medicare, are over the [redacted], or have become certified disabled, may qualify for Medicaid under non-MAGI standards. NYSOH is required to refer these individuals to their LDSS or HRA for redetermination of their Medicaid eligibility.

Once a case is referred, NYSOH and the LDSS/HRA must ensure that an individual receives Medicaid throughout the redetermination process to prevent any gaps in coverage. To this end, the January 23, 2017 eligibility determination notice specifically stated that you would receive Fee-For-Service Medicaid until the LDSS/HRA office made a decision.

The record indicates that your case has been referred and you indicated in your testimony that you have submitted documentation to your local HRA office. However, you also testified that you have not had health insurance coverage since February 28, 2017. Additionally, though there is no indication that a decision has been made on your application for non-MAGI Medicaid through HRA, notes in NYSOH's system indicate that your HRA Medicaid coverage ended on May 31, 2017.

Therefore, your case is RETURNED to NYSOH to ensure that you have had active Medicaid Fee-For-Service coverage since March 1, 2017, when your Essential Plan coverage ended. Additionally, NYSOH is directed to coordinate with HRA to ensure that your Fee-For-Service Medicaid through HRA is reinstated, and remains in place, until a written notice of decision is issued by HRA regarding your eligibility for non-MAGI Medicaid.

Decision

The March 1, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to follow up with HRA to ensure that:

1. You have had Fee-For-Service Medicaid coverage since March 1, 2017, AND

2. You are reinstated into Fee-For-Service Medicaid coverage through HRA until such time as a written notice of decision is issued to you regarding your eligibility for non-MAGI Medicaid through HRA.

Effective Date of this Decision: June 27, 2017

How this Decision Affects Your Eligibility

You are not eligible for Medicaid or the Essential Plan through NYSOH.

Your case is being sent back to NYSOH to follow up with HRA to ensure that you have active Fee-For-Service Medicaid coverage beginning March 1, 2017 and

until such time as HRA issued a written notice of decision regarding your eligibility for non-MAGI 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 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 March 1, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to follow up with HRA to ensure that:

1. You have had Fee-For-Service Medicaid coverage since March 1, 2017, AND

2. You are reinstated into Fee-For-Service Medicaid coverage through HRA until such time as a written notice of decision is issued to you regarding your eligibility for non-MAGI Medicaid through HRA.

You are not eligible for Medicaid or the Essential Plan through NYSOH.

Your case is being sent back to NYSOH to follow up with HRA to ensure that you have active Fee-For-Service Medicaid coverage beginning March 1, 2017 and until such time as HRA issued a written notice of decision regarding your eligibility for non-MAGI 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:

[redacted]

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).

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 مجانًا.

বাংলা (Bengali)

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).

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।

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 महत्त्वपूर्ण 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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.

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 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).