



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

Notice of Decision

Decision Date: October 05, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020484

[REDACTED]

Dear [REDACTED]

On September 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 8, 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 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.

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Decision

Decision Date: October 05, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020484

[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 your eligibility for the Essential Plan began on June 1, 2017?

Procedural History

On June 7, 2017, NYSOH received your update application for health insurance. This application included a request for assistance paying medical bills from the month of May 2017.

On June 8, 2017, NYSOH issued a notice of eligibility determination, stating that you were eligible to enroll in the Essential Plan for a limited time, with no monthly premium, effective June 1, 2017. You qualified for the Essential Plan because your income was less than the allowable income limit and you were in the first five years of your qualified immigration status or living in the United States under the color of law. The notice directed you to submit documentation of your income by September 5, 2017.

On June 14, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Essential Plan with no monthly premium, beginning June 1, 2017.

On June 15, 2017, documentation was uploaded to your NYSOH account on your behalf.

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On June 16, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for the Essential Plan with no monthly premium, effective July 1, 2017.

Also on June 16, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid for the period of May 1, 2017 through May 31, 2017.

On July 12, 2017, your application counselor contacted NYSOH's Account Review Unit and requested an appeal, insofar as you were not eligible for the Essential Plan beginning May 1, 2017.

On September 27, 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 application states that you will be filing taxes with a filing status of single and claiming no dependents on your tax return.
- 2) You testified that you have a permanent resident card, and that you have been a permanent resident for three years.
- 3) Your NYSOH application indicates that you were granted permanent residency on [REDACTED] 2014, as confirmed by NYSOH.
- 4) The application that was submitted on June 7, 2017, which requested financial assistance, listed annual household income of \$0.00.
- 5) The application that was submitted on June 7, 2017 requested help paying for medical bills from the month of May 2017, and indicated that your income was \$0.00 in that month.
- 6) You testified that you were hospitalized sometime in May 2017, and that someone from the hospital helped you apply for health insurance.
- 7) Your NYSOH account indicates that there is an application counselor on your account from [REDACTED].
- 8) You testified that you know you need coverage for the month of May 2017, and you were not aware that you were granted Medicaid coverage for that month.

- 9) You testified that you are not sure if you are still being billed by the hospital for the month of May 2017.
- 10) You testified that your application counselor filed this appeal for you.
- 11) Notes entered in NYSOH's system by a NYSOH representative on July 13, 2017 in Incident [REDACTED] state, "Consumer would like to appeal due to bills not being able to be split by 2 different insurances." The note further indicates that your application counselor called NYSOH to make this complaint.
- 12) You testified that you do not recall the hospital saying anything to you about not being able to bill two different insurances.

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 \$11,880.00 for a one-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>).

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Medicaid

A person who meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard is eligible for Medicaid benefits (45 CFR § 155.305(c)). One of the non-financial criteria for Medicaid eligibility is the immigration status of the person applying for health insurance. A person is eligible for Medicaid when his or her immigration status is satisfactory and he or she meets all other requirements for Medicaid (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 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 applications, that was the 2017 FPL, which is \$12,060.00 for a one-person household (82 Fed. Reg. 8831).

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010, 13ADM-03(III)(F)).

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).

Retroactive Medicaid

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of an initial application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied (42 USCA § 1396A(34); 42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

In NY State, qualified immigrants who receive coverage through the Essential Plan must be given retroactive Medicaid eligibility, if otherwise eligible, in the three-month period prior to their application for insurance (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>).

Legal Analysis

The issue under review is whether NYSOH properly determined that your eligibility for the Essential Plan began as of June 1, 2017.

An application for financial assistance was submitted to NYSOH on your behalf on June 7, 2017. The application listed an annual household income of \$0.00, and the eligibility determination relied upon that information.

According to your application, you are in a one-person household. You expect to file your 2017 income taxes as single and will claim no dependents on that tax return.

The Essential Plan is provided through NYSOH to individuals who are lawfully present non-citizens who are ineligible for Medicaid or Child Health Plus because of their immigration status, and have a household income that is between 0% and 200% of the FPL. 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 that is at or below 138% of the FPL for the applicable family size.

On the date of your application, the relevant 2016 FPL was \$11,880.00 for a one-person household, and the relevant 2017 FPL was \$12,060.00 for a one-person household. Since an annual income of \$0.00 is 0% of the 2016 FPL and 0% of the 2017 FPL, you meet the financial eligibility criteria for both the Essential Plan and Medicaid.

However, you testified that you are a permanent resident, and have had permanent resident status for three years. As of January 1, 2016, legal permanent residents who were eligible for Medicaid through NY State, but were not eligible for Medicaid under federal law due to being in the first five years of their permanent residency, must now receive coverage through the Essential Plan. Therefore, because you are in your first five years of permanent residency, NYSOH properly determined that you do not meet the non-financial requirements for Medicaid.

Since you meet the non-financial and financial requirements for the Essential Plan, NYSOH properly determined you to be eligible for Essential Plan coverage.

If you were still eligible to receive Medicaid through NY State, your fee-for-service coverage would have started on the first day of the month of your application. Since you are receiving the Essential Plan based on your

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immigration status, and would otherwise be eligible for Medicaid, your Essential Plan coverage begins on the first day of the month of your application. Therefore, your Essential Plan coverage properly began on June 1, 2017.

The application submitted on June 7, 2017 also requested help paying for bills in the month of May 2017.

When an individual files an initial application for Medicaid, his or her eligibility for retroactive Medicaid depends on the date of application. To this end, it does not matter whether that initial application resulted in Medicaid going forward. Instead, an individual, who has filed an initial application for Medicaid through NYSOH, has the right to be evaluated for Medicaid for the three months before the month of his or her application.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's initial application if the individual received medical services that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

Individuals in NY State who receive coverage through the Essential Plan instead of Medicaid because of their immigration status are eligible for retroactive Medicaid coverage in the three months prior to their application, as Essential Plan coverage cannot be made retroactive. As such, NYSOH found you eligible for fee-for-service Medicaid in the month of May 2017.

Therefore, since the June 8, 2017, eligibility determination properly stated that, based on the information you provided, you were eligible for the Essential Plan effective June 1, 2017, it was correct and is AFFIRMED.

The appeal request that was made, combined with your testimony at the hearing, seem to indicate that this request was made by an application counselor working at the hospital because the hospital did not want to bill Medicaid for one month, and the Essential Plan for another month.

You may contact the hospital directly and request that it submit any bills from May 2017 to Medicaid, and any bills from June 2017 to your Essential Plan for coverage.

Decision

The June 8, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: October 05, 2017

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How this Decision Affects Your Eligibility

You were eligible for the Essential Plan beginning June 1, 2017.

You were eligible for fee-for-service Medicaid in the month of May 2017.

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.

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If You Have Questions about this Decision (Customer Service Resources):

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- 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 June 8, 2017 eligibility determination notice is AFFIRMED.

You were eligible for the Essential Plan beginning June 1, 2017.

You were eligible for fee-for-service Medicaid in the month of May 2017.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

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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