



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

Notice of Decision

Decision Date: December 12, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023249

[REDACTED]

[REDACTED]

On December 4, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 4, 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.

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: December 12, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023249

[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 eligible to enroll in the Essential Plan, effective November 1, 2017, and not eligible for Medicaid?

Procedural History

On December 5, 2016, NYSOH issued a notice stating that your Medicaid coverage through the Human Resources Administration was ending, effective March 31, 2017, and that you needed to update your NYSOH account between February 16, 2017 and March 15, 2017 to renew your coverage.

On March 9, 2017, NYSOH received your updated application for health insurance, in which you indicated that you were pregnant and expecting one child

[REDACTED]

On March 10, 2017, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible for Medicaid, effective April 1, 2017. The notice further stated that you needed to submit documentation of your household income by March 24, 2017.

On March 16, 2017, you updated your application.

On March 17, 2017, NYSOH issued a notice of eligibility determination stating that you remained conditionally eligible for Medicaid, effective April 1, 2017, and that you needed to submit documentation of your income by April 8, 2017.

On March 23, 2017, you faxed documentation to NYSOH.

On April 6, 2017, NYSOH redetermined your eligibility.

On April 7, 2017, NYSOH issued a notice of eligibility determination stating that you remained eligible for Medicaid, effective April 1, 2017.

On April 17, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in a MetroPlus Medicaid Managed Care (MMC) plan, beginning June 1, 2017.

On April 22, 2017, NYSOH issued a notice of enrollment confirmation confirming your new enrollment in a Healthfirst MMC plan, beginning June 1, 2017.

On August 24, 2017, you updated your NYSOH account and added your newborn child to your application.

On August 25, 2017, NYSOH issued a notice of eligibility determination stating that you remained eligible for Medicaid, effective August 1, 2017.

On September 3, 2017, NYSOH issued a renewal notice, stating that it was time to renew your application for financial assistance through NYSOH.

On October 3, 2017, you updated your NYSOH account.

On October 4, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan with no monthly premiums, effective November 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 you are living in the United States under the color of law. The notice also stated that you no longer qualified for Medicaid through NYSOH as of October 31, 2017.

Also on October 4, 2017, NYSOH issued a disenrollment notice, stating that your enrollment in your MMC plan was ending, effective October 31, 2017, because you were no longer eligible to remain enrolled in that plan.

That same day, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in a Healthfirst Essential Plan 4 with medical, dental, and vision coverage, beginning November 1, 2017.

On October 10, 2017, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination, insofar as you were not eligible for Medicaid.

On December 4, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing closed at the end of the hearing.

Findings of Fact

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

- 1) You are appealing on behalf of yourself.
- 2) Your application states that you will be filing taxes with a filing status of married filing jointly and claiming two dependents on your tax return.
- 3) You testified that you have a permanent resident card, and that you were granted permanent resident status in September of 2014.
- 4) You testified that you were granted legal permanent resident status because you had a [REDACTED] petition that was granted, and your [REDACTED] was versus a [REDACTED].
- 5) You testified that, because of your status and pending [REDACTED], you were eligible for Medicaid prior to becoming a legal permanent resident.
- 6) You testified that you believed you would continue to be eligible for Medicaid.
- 7) Your NYSOH application indicates that your youngest child was born on [REDACTED], and you confirmed this in your testimony.
- 8) Your NYSOH account reflects that your eligibility for Medicaid ended as of October 31, 2017.
- 9) You testified that you called NYSOH regarding the October 4, 2017 eligibility determination, and you were informed that you were eligible for Medicaid when you applied through NYSOH in March 2017 because you were pregnant, and that your Medicaid ended because you gave birth [REDACTED].
- 10) The application that was submitted on DATE, which requested financial assistance, listed annual household income of \$17,760.00.

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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 \$24,300.00 for a four-person household (81 Federal Register 4036.).

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/downloads/ny-blueprint.pdf>).

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 application, that was the 2017 FPL, which is \$24,600.00 for a four-person household (82 Fed. Reg. 8831).

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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/downloads/ny-blueprint.pdf>). 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).

Pregnant Women

Women who are pregnant are eligible for Medicaid, regardless of their immigration status, if their household income is at or below 223% of the FPL. (42 CFR § 435.116(c)). Pregnant women will not be transitioned to the Essential Plan because they remain eligible for Medicaid with federal financial participation (NY Department of Health Administrative Directive 16 OHIP/ADM-01). Pregnant women will remain eligible for Medicaid coverage through the last day of the month in which the 60-day post-partum period ends (42 CFR § 435.170(b)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were eligible to enroll in the Essential Plan, effective November 1, 2017, and not eligible for Medicaid.

The application that was submitted on October 3, 2017 listed an annual household income of \$17,760.00, and the eligibility determination relied upon that information.

According to your application, you are in a four-person household. You expect to file your 2017 income taxes as married filing jointly and will claim two 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 FPL was \$24,300.00 for a three-person household. Since an annual income of \$17,760.00 is 73.09% of the 2016

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FPL and 72.20 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 since September 2014. As of January 1, 2016, legal permanent residents who were receiving 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.

Your NYSOH account reflects that you were receiving Medicaid from April 1, 2017 through October 31, 2017. Your NYSOH account also reflects that you were pregnant when you updated your application in March 2017, and you gave birth to a child on [REDACTED].

Women who are pregnant and have a household income that is at or below 223% of the FPL will be eligible for Medicaid, regardless of their immigration status. Therefore, when you applied through NYSOH in March 2017 and indicated that you were pregnant in your application, you were correctly found eligible for Medicaid based on your pregnancy. Likewise, your eligibility properly ended on October 31, 2017: the last day of the month in which the 60-day period following the birth of your child ended.

Since you meet the non-financial and financial requirements for the Essential Plan, NYSOH properly determined you to be eligible for Essential Plan coverage, effective November 1, 2017.

Therefore, as the October 4, 2017 eligibility determination properly stated that, based on the information you provided, you were eligible for the Essential Plan effective November 1, 2017, it was correct and is AFFIRMED.

Decision

The October 4, 2017 eligibility determination is AFFIRMED.

Effective Date of this Decision: December 12, 2017

How this Decision Affects Your Eligibility

You remain eligible for the Essential Plan.

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).

You are not eligible for Medicaid.

If You Disagree with this Decision (Appeal Rights)

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your appeal was decided, the 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 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 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 October 4, 2017 eligibility determination is **AFFIRMED**.

You remain eligible for the Essential Plan.

You are not eligible for Medicaid.

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)

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&btumi 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.

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.