



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

## Notice of Decision

Decision Date: August 22, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006989

[REDACTED]

Dear [REDACTED],

On August 1, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 5, 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 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: August 22, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006989

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## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Was NY State of Health's February 5, 2016 eligibility determination based on a correct calculation of your household's modified adjusted gross income?

## Procedural History

On February 23, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination stating that you and your spouse were eligible for Medicaid, effective February 1, 2015.

On December 20, 2015, NYSOH issued a notice stating that it was time to renew your application for health insurance. The notice further stated that a determination as to your eligibility and your spouse's eligibility could not be made based on information available from state and federal data sources, and that you needed to update the information in your NYSOH account by January 15, 2016 so that a decision could be made as to your eligibility for financial assistance in 2016.

On January 15, 2016, NYSOH received several updated applications for financial assistance.

On January 16 and 17, 2016, NYSOH issued notices stating that NYSOH had received your applications, but that more information was needed to make a

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determination about your eligibility and your spouse's continuing eligibility. The notices directed you to submit income documentation for your household by January 31, 2016.

Also on January 16, 2016, NYSOH issued a notice of disenrollment, stating that your coverage and your spouse's coverage in your Medicaid Managed Care plan would end effective January 31, 2016 and February 1, 2016, respectively.

On January 27, 2016, documentation was uploaded to your NYSOH account.

On February 5, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to enroll in the Essential Plan with no monthly premium, effective March 1, 2016.

On February 10, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you were not eligible for Medicaid.

On February 11, 2016, NYSOH issued an enrollment confirmation notice confirming your enrollment and your spouse's enrollment in an Essential Plan with no monthly premium, effective March 1, 2016. The notice indicated that your plan did not include dental or vision coverage, and informed you that you could change your plan to one that does include these benefits, but that you would have a monthly premium if you chose to do so.

On August 1, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open for fifteen days after the hearing so that you could submit documentation of your household income for the month of February 2016, and information regarding the pre-tax deduction that comes out of your wife's paycheck. No information was submitted to NYSOH, and the record closed on August 16, 2016.

## **Findings of Fact**

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

- 1) You testified that you are seeking insurance coverage for the month of February 2016, and that you would like to be eligible for Medicaid because the Essential Plan in which you were enrolled does not cover your dental and vision needs.
- 2) You testified that you expect to file your 2016 taxes with a tax filing status of married filing jointly. You will claim one dependent on that tax return.
- 3) You are seeking insurance for yourself and your spouse.

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- 4) You testified that your spouse works, and that you do not have income.
- 5) The record reflects that you faxed a five-page document to NYSOH on January 26, 2016, and that this document was uploaded to your NYSOH account on January 27, 2016. This document consisted of two paystub records for your spouse as follows:
  - a. A paystub from December 31, 2015 for the period of December 12, 2015 through December 25, 2015. The paystub shows total earnings of \$1,076.17, before a pre-tax deduction described as "401WDF" in the amount of \$32.28;
  - b. A paystub from January 15, 2016 for the period of December 28, 2015 through January 8, 2016. The paystub shows total earnings of \$1,117.10, before a pre-tax deduction described as "401WDF" in the amount of \$33.51.
- 6) You testified that you were not sure what the pre-tax deduction was for.
- 7) The record reflects that NYSOH calculated your annual household income to be \$28,990.00 after you submitted these paystubs, and the February 5, 2016 eligibility determination was based on this calculation.
- 8) You testified that this amount was not correct, as your spouse works on an hourly basis and does not get the same number of hours each week. You testified that you believe her annual income is lower than what NYSOH calculated it to be.
- 9) Your application states that you will not be taking any deductions on your 2016 tax return.
- 10) You testified that your wife has a medical bill from February 2016 because you had no insurance coverage for that month.
- 11) Your application states that you live in Onondaga County.
- 12) The record was left open at the end of the hearing until August 16, 2016 to provide you with the opportunity to submit your wife's paystubs for the month of February 2016, and to submit information as to what the pre-tax deduction is that comes out of her paycheck. No documents were received by NYSOH as of the end of August 16, 2016. The record is now closed.

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

## **Applicable Law and Regulations**

### Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)).

## **Legal Analysis**

The only issue under review is whether NYSOH properly determined that your household’s modified adjusted gross income was \$28,990.00 as of the February 5, 2016 eligibility determination.

You are in a three-person household. You expect to file your 2016 income taxes as married filing jointly and will claim one dependent on that tax return. The application that was submitted on January 15, 2016 listed an annual household income of \$20,080.00. NYSOH sent you a request for income documentation and you submitted two bi-weekly paystubs for your wife on January 26, 2016. NYSOH calculated your annual income to be \$28,990.00 and based the February 5, 2016 eligibility determination on that amount.

However, a review of the paystubs you submitted shows that they do not support NYSOH’s calculation of your household income. NYSOH bases its eligibility determinations on an individual’s modified adjusted gross income, as defined by federal tax law. Your spouse’s paystubs indicate that she has pre-tax deductions. While you did not submit information to show what these deductions are for, they are nevertheless clearly indicated as pre-tax deductions. Moreover, your spouse’s paystubs include a line entitled “Federal Taxable Wages.” The amounts listed next to this entry equal your spouse’s gross wages minus the pre-tax deduction. NYSOH should therefore be using the federal taxable wage amounts from your spouse’s paystubs as a basis for calculating your annual income, and not the gross earnings amount.

Your spouse's gross federal taxable wages for the two paystubs submitted were \$1,043.88 and \$1,083.59. These two paystubs cover a total of four weeks. The average of these two paystubs is \$1,063.74. Since this amount is for a biweekly period, it is multiplied by 26 to give your spouse an annual income of \$27,657.11.

Therefore, the February 5, 2016 eligibility determination notice is based on an incorrect income calculation, and is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your and your spouse's eligibility for financial assistance as of February 1, 2016, based on a household of three with an annual expected income of \$27,657.11.

## **Decision**

The February 5, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine you and your spouse's eligibility for financial assistance effective February 1, 2016, based on a three-person household, residing in Onondaga County with an annual household income of \$27,657.11.

**Effective Date of this Decision:** August 22, 2016

## **How this Decision Affects Your Eligibility**

NYSOH's calculation of your household's 2016 income was not correct.

Your case is being sent back to NYSOH to redetermine your and your spouse's eligibility for coverage as of February 1, 2016, based on a household of three with an annual income of \$27,657.11.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services 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 after the Decision Date, which appears on the first page of this Decision.

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).

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 U.S. Department of Health and Human Services. 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 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:  
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P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The February 5, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your and your spouse's eligibility for financial assistance effective February 1, 2016, based on a three-person household, residing in Onondaga County with an annual household income of \$27,657.11.

NYSOH's calculation of your household's 2016 income was not correct.

Your case is being sent back to NYSOH to redetermine your and your spouse's eligibility for coverage as of February 1, 2016, based on a household of three with an annual income of \$27,657.11.

### **Legal Authority**

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**A Copy of this Decision Has Been Provided To:**

