



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

Notice of Decision

Decision Date: April 27, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013968

[REDACTED]

Dear [REDACTED]

On March 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 14, 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 NY State of Health 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: April 27, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013968



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 spouse was ineligible for the Essential Plan, effective January 1, 2017?

Procedural History

On November 17, 2015, NYSOH received your application for financial assistance.

On November 23, 2015, NYSOH issued an eligibility determination based on the November 17, 2015 application, stating that you, your spouse, and your daughter were eligible to enroll in an Essential Plan, effective January 1, 2016.

On December 6, 2015, NYSOH issued an enrollment confirmation notice confirming you, your spouse and your daughter's enrollment in an Essential Plan, effective January 1, 2016.

On October 15, 2016, NYSOH issued a renewal notice which stated that based on the information from federal and state sources a decision could not be made about whether you, your spouse or your daughter qualified for financial help paying for health coverage. The notice directed you to update the information on you, your spouse and your daughter's NYSOH account by December 15, 2016. The notice stated that if you miss this deadline, the financial assistance you are receiving may end.

On December 7, 2016, you updated your application with NYSOH.

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On December 8, 2016, NYSOH issued an eligibility determination notice stating that you and your daughter were eligible for the Essential Plan, effective January 1, 2017. The notice stated that your spouse was eligible to purchase a qualified health plan at full cost, effective January 1, 2017. The notice stated that your spouse was not eligible for Medicaid, Child Health Plus or the Essential Plan because he did not meet the income limits, as well as other eligibility standards for these programs.

Also on December 8, 2016, NYSOH issued an enrollment confirmation notice stating that you and your daughter were enrolled in an Essential Plan, effective January 1, 2017.

Also on December 8, 2016, NYSOH issued a notice stating that your spouse's Essential Plan coverage would end effective December 31, 2016.

On December 13, 2016, you updated your application for financial assistance. That day, a preliminary eligibility determination was made stating that your spouse was eligible to purchase a qualified health plan at full cost.

Also on December 13, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as your spouse was determined ineligible for the Essential Plan.

On December 14, 2016, NYSOH issued an eligibility determination stating that your spouse was eligible to purchase a qualified health plan at full cost, effective January 1, 2017. The notice stated that your spouse was not eligible for Medicaid, Child Health Plus or the Essential Plan because he did not meet the income limits, as well as other eligibility standards for these programs.

On March 10, 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 application dated December 13, 2016 states the following:
 - (a) You will be filing your 2016 taxes with a tax filing status as head of household with a qualifying individual;
 - (b) You will be claiming your daughter as your only dependent;
 - (c) Your spouse will not be filing taxes in 2016;
 - (d) Your spouse has no expected yearly income.

- 2) At the hearing, you testified that you expect to file your 2016 taxes with a tax filing status of married filing separately. Contrary to what you attested to in your December 13, 2016 application, you will not file your 2016 taxes as head of household with a qualifying individual.
- 3) At the hearing, you testified that you will claim your daughter and your spouse as dependents on your 2016 tax return. Contrary to what you attested to in your December 13, 2016 application, you will not be claiming only your daughter as a dependent on your 2016 tax return.
- 4) You testified that your spouse did not file a tax return in 2015.
- 5) You testified that you are married and that your spouse lived with you during 2015 and 2016. You testified that you currently live with your spouse.
- 6) You testified that you will not be claimed as a tax dependent by anyone in 2016 or 2017.
- 7) The application that was submitted on December 13, 2016, which requested financial assistance, listed annual household income of \$35,960.00, consisting of \$35,960.00 you earn from your employment. You testified that this amount was correct.
- 8) Your application states that you live in [REDACTED]
- 9) You testified that you are seeking a redetermination of your spouse's eligibility insofar as you would like him to be deemed eligible for the Essential Plan as of January 1, 2017.

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

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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).

NYSOH must determine the family size for applicants for the Essential Plan consistent with the standards set in 42 CFR § 603 (F)(1)&(4) (New York's Basic Health Plan Blueprint, pgs. 16-17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>; 42 CFR § 600.345(a)(2)).

"Family size" means the number of persons counted as members of an individual's household. The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

In the case of a married couple living together, each spouse is included in the Essential Plan household of the other spouse, regardless of whether they expect to file a joint tax return (42 CFR § 435.603 (f)(4)).

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 \$20,160.00 for a three-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/basic-health-program.html>).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

The Essential Plan is considered minimum essential coverage therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

Legal Analysis

The only issue under review is whether NYSOH properly determined that your spouse was ineligible for the Essential Plan, effective January 1, 2017.

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The application that was submitted on December 13, 2016 listed an annual household income of \$35,960.00 and the eligibility determination relied upon that information.

You testified that you do not expect to file a 2016 joint tax return with your spouse and that you will claim your spouse and daughter as dependents on that tax return.

"Family size" means the number of persons counted as members of an individual's household. The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents.

In the case of a married couple living together, each spouse is included in the Essential Plan household of the other spouse, regardless of whether they expect to file a joint tax return.

Therefore, you, your spouse, and your daughter are in a three-person household for purposes of Essential Plan eligibility.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$20,160.00 for a three-person household. Since an annual household income of \$35,960.00 is 178.37% of the 2016 FPL, NYSOH should have found your spouse to be eligible for the Essential Plan.

Therefore, the December 14, 2016 eligibility determination is **RESCINDED**. Your spouse's case is being **RETURNED** to NYSOH to redetermine his eligibility for 2017 coverage in an Essential Plan based on a three-person household, with an annual household income of \$35,960.00.

Decision

The December 14, 2016 eligibility determination is **MODIFIED** to rescind the finding regarding your spouse's eligibility.

Your spouse's case is being **RETURNED** to NYSOH to redetermine his eligibility for 2017 coverage in an Essential Plan, based on a three-person household, with an annual household income of \$35,960.00.

Effective Date of this Decision: April 27, 2017

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).

How this Decision Affects Your Eligibility

NYSOH incorrectly found your spouse ineligible for the Essential Plan, effective January 1, 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.

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):

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 December 14, 2016 eligibility determination is **RESCINDED**.

Your spouse's case is being **RETURNED** to NYSOH to redetermine his eligibility for 2017 coverage, in an Essential Plan based on a three-person household, with an annual household income of \$35,960.00.

NYSOH incorrectly found your spouse ineligible for the Essential Plan, effective January 1, 2017.

Legal Authority

We are sending you this notice 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&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 איר געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.