



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

## Notice of Decision

Decision Date: June 26, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014438

[REDACTED]

Dear [REDACTED],

On June 16, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 10, 2016 eligibility determination notice and December 20, 2016 eligibility determination and plan enrollment notices.

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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DEPARTMENT OF HEALTH  
P.O. Box 11729  
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## Decision

Decision Date: June 26, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014438

[REDACTED]

## Issue

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

Did NY State of Health properly determine that you and your child's eligibility for and enrollment in an Essential Plan began February 1, 2017?

## Procedural History

On September 15, 2016, NY State of Health (NYSOH) received your household's application for financial assistance with your health insurance.

On September 16, 2016, NYSOH issued a notice stating more information was needed to confirm your and your child's eligibility. You were directed to submit income documentation for your household by September 30, 2016.

No income documentation was provided by September 30, 2016.

On November 11, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible to purchase a qualified health plan at full cost through NYSOH, effective December 1, 2016. This notice further stated that this was because NYSOH had not received the requested income documentation to verify your household income by the due date. This notice further directed you to submit additional income documentation for yourself by November 14, 2016.

Also on November 11, 2016, NYSOH issued a notice stating that more information in the form of income documentation was required to confirm your

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eligibility. You were asked to submit income documentation for yourself by November 14, 2016.

On November 25, 2016, you faxed income documentation to NYSOH.

On December 9, 2016, NYSOH uploaded that documentation to your NYSOH account.

On December 11, 2016, NYSOH issued an eligibility determination notice stating that you and your child were eligible to purchase a qualified health plan at full cost, effective January 1, 2017. This notice further stated that this was because NYSOH did not receive the requested information to verify your income by the due date.

On December 13, 2016, NYSOH received your updated application for financial assistance with health insurance.

On December 14, 2016, NYOSH issued a notice stating that more information was needed to decide your and your child's eligibility. You were directed to submit income documentation for your household by December 28, 2016.

On December 19, 2016, NYSOH received your updated application for financial assistance with health insurance.

On December 20, 2016, NYSOH issued an eligibility determination notice stating that you and your child were eligible for the Essential Plan for a limited time, effective February 1, 2017. The notice also directed you to submit income documentation for your household by March 19, 2017.

Also on December 20, 2016, NYSOH issued a plan enrollment notice confirming you and your child were enrolled in the Essential Plan, effective February 1, 2017.

On December 28, 2016, NYSOH invalidated the income documentation that was uploaded to your NYSOH account on December 9, 2016.

On December 29, 2016, NYSOH issued a notice stating that the income documentation that you submitted for your child was not sufficient to confirm the information in your application. This notice further directed you to submit additional income documentation for your household by March 19, 2017.

On December 29, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the start date of your and your child's Essential Plan, requesting that coverage begin on January 1, 2017.

On April 13, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date, which was granted to April 26, 2017.

On April 26, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You again requested that day that the hearing be adjourned to a later date, which was granted.

On June 14, 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) According to your NYSOH account, NYSOH received your application for financial assistance on September 15, 2016.
- 2) Your September 15, 2016 application stated that you would be claiming your child as a dependent on your 2016 federal tax return, and that your child will not be filing a federal tax return.
- 3) You September 15, 2016, application listed your expected annual income to be \$20,448.00 and your child's expected annual income to be \$5,600.00.
- 4) You testified that you only have one employer and are paid weekly.
- 5) On November 25, 2016, you faxed a six-page document to the NYSOH. This documented consisted of three paystubs from your child's employer, dated August 26, 2016, September 2, 2016, and September 30, 2016; as well as four paystubs from your employer, dated October 28, 2016, November 4, 2016, November 10, 2016 and November 18, 2016.
- 6) According to your NYSOH account, the documentation that you faxed on November 25, 2016 was uploaded to your NYSOH account on December 9, 2016.
- 7) On December 10, 2016, NYSOH ran an application for financial assistance on your household's behalf, and you and your child were found eligible for a full price qualified health plan, effective January 1, 2017 because you failed to submit income documentation by the due date.
- 8) The four paystubs you fax on November 25, 2016 included current paystubs from your employer, as follows: a paystub dated October 28,

2016 for a gross amount of \$519.90, a paystub dated November 4, 2016 for a gross amount of \$519.90, a paystub dated November 10, 2016 for a gross amount of \$519.90, and a paystub dated November 18, 2016 for a gross amount of \$528.45.

- 9) The income documentation indicates that you make on average a gross income of \$2,088.16 per month. Therefore, your expected household annual income, based on the income documentation you submitted on November 25, 2016, would be \$25,057.92
- 10) According to your NYSOH account, NYSOH received your updated application for financial assistance on December 19, 2016.
- 11) The December 19, 2016 application stated that you planned on claiming your child as a dependent on your 2017 federal tax return.
- 12) You December 19, 2016 application listed your expected annual income as \$32,000.00 and your child's expected annual income to be \$2,095.00.
- 13) According to your NYSOH account, on December 20, 2016, you and your child were found eligible for the Essential Plan for a limited time, effective February 1, 2017.
- 14) The record reflects that you and your child enrolled in an Essential Plan on December 19, 2017 with a February 1, 2017 start date.
- 15) You testified that you are seeking your and your child's Essential Plan start date to be January 1, 2017, and not February 1, 2017.

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

## **Applicable Law and Regulations**

### Verification of Eligibility for the 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

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§ 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

NYSOH must verify the eligibility of an applicant for the Essential Plan consistent with the standards set in 45 CFR § 155.315 and § 155.320 (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)).

An applicant is required to attest to their household's projected annual income. (45 CFR § 155.320(c)(3)(ii)(B)). For all individuals, whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security in order to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant in order to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any updates in eligibility to the Essential Plan effective the first day of the following month for changes received by NYSOH from the first to the fifteenth of any month (45 CFR § 155.420(b)(1)(i); see also 42 CFR § 600.320(c)). For updates received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR § 155.420(b)(1)(ii); see also 42 CFR § 600.320(c)).

### Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR § 155.300(a), 42 CFR § 435.603(e), see 26 USC § 36B(d)(2)(B)).

With regard to eligibility for financial assistance through the Marketplace, a tax filer's household income includes the MAGI of all the individuals in the taxpayer's household who are required to file a federal tax return for the taxable year (26

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CFR § 1.36B-1(e)(1); 42 CFR § 435.603(d)(1)). The MAGI-based income of a child who is not required to file a tax return is not included in household income (42 CFR § 435.603(d)(2)).

A dependent is not required to file a tax return if their gross income is less than the sum of the exemption amount plus the basic standard deduction allowable for that person (26 USC § 6012(a)(1)(A)). For the 2016 year, a dependent who had yearly gross earned income greater than \$6,300.00 or gross unearned income greater than \$1,050.00 would be required to file a tax return (see IRS Revenue Procedure 2014-61).

Unearned income is generally all income other than salaries, wages and other amounts received as pay for work actually performed, including the taxable part of Social Security and pension payments (IRS Publication 929, pg 15).

For the purposes of determining a person's eligibility for financial assistance for health insurance through the Marketplace, the term "MAGI" 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)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determine that your and your child's eligibility for and enrollment in your Essential Plan was effective February 1, 2017.

For all individuals, whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income.

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

You updated your NYSOH account on September 14, 2016. Your September 14, 2016 application listed an expected annual income of \$20,448.00, and your child's expected annual income to be \$5,300.00. This application also indicated that you planned on claiming your child as a dependent on your 2016 federal tax return.



The income amount that was entered into this application did not match federal and state data sources. As a result, NYSOH asked that you submit additional documentation to confirm your household income by September 20, 2016.

No income documentation was received by September 30, 2016. Subsequently, a new application was submitted on your household's behalf on November 10, 2016 and your child was determined eligible for a full price qualified health plan. NYSOH also issued a notice stating that they needed more information in order to determine your eligibility by November 14, 2016.

No income documentation was received by the November 14, 2016 deadline. Subsequently, a new application was submitted on your household's behalf on December 10, 2016. On December 11, 2016, NYSOH issued an eligibility determination stating that you and your child were eligible for a full price qualified health plan, effective January 1, 2017, because NYSOH did not receive the requested information to verify your household income by the due date.

However, the record indicates that you faxed income documentation for yourself and your child on November 25, 2016, and this documentation was uploaded to your NYSOH account on December 9, 2016.

Further, the income documentation that was faxed on November 25, 2016, and uploaded to your account on December 9, 2016, was sufficient to determine your household income. However, NYSOH failed to verify and validate the documentation prior to submitting your updated application on December 10, 2016 and redetermining your and your child's eligibility for financial assistance.

Household income for the purposes of calculating a person's eligibility for financial assistance to help pay for the costs of health insurance through the Marketplace, consists of the Modified Adjusted Gross Income of all tax filers in a household who are required to file a tax return.

You indicated on your September 15, 2015 application that you planned on claiming your child on your 2016 federal tax return, and that your child will not be filing a federal tax return. A dependent will be required to file a tax return in 2016 if their earned income is greater than \$6,300.00. According to the information on your September 15, 2016 application, your child had expected earned income in the amount of \$5,600.00 from her employment. Since your child has an earned income less than \$6,300.00, she was not required to file a tax return on the basis of her earned income. As a result, your child's income is not used to calculate your and your child's household income, and NYSOH would not need additional proof of income for your child. However, NYSOH would require proof of household income to determine your child's eligibility; which would require you to submit your income documentation.

The four paystubs you faxed on November 25, 2016 included: a paystub dated October 28, 2016 for a gross amount of \$519.90, a paystub dated November 4, 2016 for a gross amount of \$519.90, a paystub dated November 10, 2016 for a gross amount of \$519.90, and a paystub dated November 18, 2016 for a gross amount of \$528.45. The income documentation indicates that you make on average a gross income of \$2,088.16 per month. Therefore, your expected household annual income, based on the income documentation you submitted on November 25, 2016, would be \$25,057.92.

Had NYSOH ascertained your expected household income based on the income documentation submitted on November 25, 2017, you and your child would have been found fully eligible for and able to enroll in an Essential Plan with a \$20.00 monthly premium, effective January 1, 2017.

Therefore, NYSOH's December 10, 2016 eligibility determination notice finding you and your child eligible for a full price qualified health plan, effective January 1, 2017, is RECIDNED.

Further, the December 20, 2016 eligibility determination and the December 20, 2016 plan enrollment notice is MODIFIED to state that you and your child are fully eligible for and enrolled in the Essential Plan with a \$20.00 monthly premium, effective January 1, 2017.

Your case is RETURNED to NYSOH to effectuate the changes to your account as noted above, and to notify you accordingly.

## **Decision**

The December 10, 2016 eligibility determination notice is RECIDNED.

The December 20, 2016 eligibility determination notice is MODIFIED to state that you and your child are fully eligible for the Essential Plan with a \$20.00 monthly premium, effective January 1, 2017.

The December 20, 2016 plan enrollment notice is MODIFIED to state that your and your child's enrollment in your Essential Plan is effective January 1, 2017.

Your case is RETURNED to NYSOH to effectuate the changes to your account as noted above, and to notify you accordingly.

You will be responsible for any premium payments for all the months you and your child are enrolled into coverage.

**Effective Date of this Decision:** June 26, 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**

The effective date of your and your child's Essential Plan is January 1, 2017.

Your case is being sent back to NYSOH to change the start date of your child Essential Plan from February 1, 2017 to January 1, 2017. NYOSH will notify you once this change has been completed.

You will be responsible for any premium payments for all the months you and your child are enrolled into coverage.

## **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 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 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:

NY State of Health Appeals

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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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The December 10, 2016 eligibility determination notice is **RECIDED**.

The December 20, 2016 eligibility determination notice is **MODIFIED** to state that you and your child are fully eligible for the Essential Plan with a \$20.00 monthly premium, effective January 1, 2017.

The December 20, 2016 plan enrollment notice is **MODIFIED** to state that your and your child's enrollment in your Essential Plan is effective January 1, 2017.

Your case is **RETURNED** to NYSOH to effectuate the changes to your account as noted above, and to notify you accordingly.

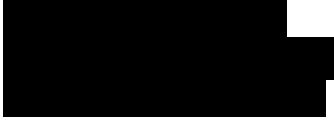
The effective date of your and your child's Essential Plan is January 1, 2017.

You will be responsible for any premium payments for all the months you and your child are enrolled into coverage.

## **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 मददत चाहन्छि 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&etumi 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 איך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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