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

Notice of Decision

Decision Date: April 24,2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000014750

[redacted]

Dear [redacted]

On April 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 20, 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 the 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: April 24,2017

NY State of Health Account ID: [redacted]
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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

> Did NY State of Health (NYSOH) properly determine that you and your spouse were eligible for the Essential Plan, with a $20.00 premium each, effective February 1, 2017?
>
> Did NYSOH properly determine that you and your spouse were not eligible for Medicaid?

Procedural History

On December 6, 2016, you submitted an application for financial assistance and uploaded documentation to your NYSOH account.

On December 7, 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 for a limited time, effective January 1, 2017. The notice directed you to submit documentation of your, and your spouse's, income by March 1, 2017.

On December 19, 2016, your application for financial assistance was updated by NYSOH, after NYSOH reviewed your income documentation.

On December 20, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to enroll in the Essential Plan with a $20.00 monthly premium each, effective February 1, 2017.

On December 28, 2016, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in a Fidelis Care Essential Plan 1, with a $20.00 monthly premium, and your spouse's enrollment in a United Healthcare Essential Plan 1, with a $20.00 monthly premium. Both plans had an enrollment start date of January 1, 2017.

On January 10, 2017, you spoke to NYSOH's Account Review Unit and appealed the fact that you and your spouse were not eligible for a higher level of financial assistance.

On April 10, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open for fifteen days to allow you to submit supporting documents. On April 14, 2017, you faxed a seven-page document to NYSOH's Appeals Unit and indicated that you did not intend to send any further documentation. The record is now closed.

Findings of Fact

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

1) You testified that you expect to file your 2017 taxes with a tax filing status of married filing jointly. You will claim one dependent on that tax return.

2) You are appealing on behalf of yourself and your spouse.

3) On December 19, 2016, NYSOH updated your application for financial assistance, based on the income documentation that you faxed to NYSOH on December 6, 2016.

4) The December 19, 2016 application listed annual household income of $35,018.74 consisting of $24,788.00 you earn from your employment and $10,230.74 your spouse earns from his employment You testified that these amounts sounded correct.

5) You testified that you generally work 35 hours per week, and that you earn approximately $13.61 per hour, and are paid biweekly.

6) You testified that your spouse's income varies, as he works five to fifteen hours per week, at $12.00 an hour.

7) After the hearing, you faxed documentation to NYSOH consisting of four weeks' worth of paystubs for you and your spouse, representing the

income you both received in the month of February 2017. The fax consisted of the following:

a. A one-page fax cover sheet stating “No further documentation;”
b. Two biweekly paystubs for you, for the following dates and gross taxable amounts:
    i. February 9, 2017: $936.24;
    ii. February 23, 2017: $943.13;
c. Four weekly paystubs for your spouse, for the following dates and gross taxable amounts:
    i. February 2, 2017: $297.00;
    ii. February 9, 2017: $153.00;
    iii. February 16, 2017: $366.00;
    iv. February 23, 2017: $258.00.

Taken together, these documents are marked and entered into the record as “Appellant’s Exhibit One.”

8) Your application states that you will not be taking any deductions on your 2017 tax return. However, you testified that this is not correct, and that you will be taking a deduction for student loan interest.

9) You testified that you took a $2,500.00 deduction for student loan interest on your 2016 federal tax return, and that you expect to take the same deduction in 2017.

10) You testified that you cannot afford the copays and other out-of-pocket expenses associated with the level of Essential Plan coverage that you have, and that you are looking to be eligible for more financial assistance for yourself and your spouse.

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 $20,160.00 for a three-person household (81 Fed. Reg. 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, and will share in the cost of some services through co-pays (New York's Basic Health Plan Blueprint, as approved January 2016).

Medicaid

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (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 2016 FPL, which is $20,160.00 for a three-person household (81 Fed. Reg. 4036).

After January 26, 2017, the applicable FPL was the 2017 FPL, which is $20,420.00 for a three-person household (82 Fed. Reg. 8831).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

Modified Adjusted Gross Income

NYSOH 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 federal taxable income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of finds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

Subject to some limitations, interest on a qualified educational loan can be deducted from adjusted gross income in an amount up to $2,500 in interest paid by taxpayers during the taxable year, whose yearly income does not exceed $160,000 (26 USC § 221; see also 26 USC § 62 (17)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your spouse were eligible for the Essential Plan, with a $20.00 premium per month each, effective February 1, 2017.

NYSOH updated your application on December 19, 2016 to reflect an annual household income of $35,018.74, and the eligibility determination relied upon that information.

You are in a three-person household. You expect to file your 2017 income taxes as married filing jointly and will claim one dependent on that tax return.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income 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 $35,018.74 is 173.7% of the 2016 FPL, NYSOH properly found you to be eligible for the Essential Plan.

A person who has a household income that is at or below 150% of the FPL has a $0.00 premium contribution. 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, and will share in the cost of some services through co-pays.

Your household income at the time of your application was 173.7% of the 2016 FPL. Since your household income was between 150% and 200% of the relevant FPL, NYSOH correctly determined that you and your spouse were eligible for the Essential Plan with a $20.00 per month premium, with co-pays for certain services.

However, during the hearing, you testified that you plan to take a $2,500.00 student loan interest deduction, which you took on your 2016 tax return. This is a permissible deduction for the purposes of calculating modified adjusted gross income. Additionally, after the hearing, you provided documentation showing four weeks' worth of income for yourself and for your spouse. Your gross taxable income averaged to be $939.69 biweekly, or $24,431.81 per year. Your spouse's gross taxable income averaged to be $268.50 weekly, or $13,962.00 annually.

Therefore, based on the documentation you provided after the hearing, your gross annual household income is $38,393.81, minus $2,500.00 in student loan deductions, for a total of $35,893.81. Since this is 178.04% of the 2016 FPL, you and your spouse remain eligible for the Essential Plan with a $20.00 premium per month, each.

The second issue is whether NYSOH properly determined that you and your spouse were not eligible for Medicaid.

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 $20,160.00 for a three-person household. Since $35,018.74 is 173.7% of the 2016 FPL, NYSOH properly found you and your spouse to be ineligible for Medicaid on an expected annual income basis, using the information stated in your application.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

After the hearing, you provided documentation that showed that your gross monthly household income for the month of February 2017 was $2,953.37.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the 2017 FPL, which is $2,348.00 per month. Since the documentation you provided shows that you earned $2,953.37 in February 2017, you do not qualify for Medicaid on the basis of monthly income.

Since the December 20, 2016 eligibility determination properly stated that, based on the information you provided, you and your spouse were eligible for the Essential Plan with a $20.00 monthly premium each and co-pays for certain services, it was correct and is AFFIRMED.

Decision

The December 20, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: April 24, 2017

How this Decision Affects Your Eligibility

You and your spouse remain eligible for the Essential Plan with a $20.00 monthly premium, each.

You and your spouse are ineligible for Medicaid.

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 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 20, 2016 eligibility determination notice is AFFIRMED.

You and your spouse remain eligible for the Essential Plan with a $20.00 monthly premium, each.

You and your spouse are ineligible for Medicaid.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

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).

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 مجانًا.

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।

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).

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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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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