



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

Notice of Decision

Decision Date: July 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015395

[REDACTED]

Dear [REDACTED]

On July 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 1, 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 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
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: July 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015395

[REDACTED]

Issues

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

Did NY State of Health properly determine you were not eligible to receive advance payments of the premium tax credit?

Did NY State of Health properly determine you were not eligible for the Essential Plan?

Did NY State of Health properly determine you were not eligible for Medicaid?

Procedural History

On January 30, 2017, NY State of Health (NYSOH) received your initial application for financial assistance with health insurance.

On January 31, 2017, NYSOH issued an eligibility determination notice stating you were eligible to purchase a qualified health plan at full cost, effective March 1, 2017. The notice indicated you were not eligible for Medicaid, the Essential Plan, or to receive advance payments of the premium tax credit (APTC), because the income amount listed in your application was over the allowable income limit for those programs.

Also on January 31, 2017, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating you were eligible to purchase a qualified health plan at full cost, effective March 1, 2017.

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Finally, on January 31, 2017, you spoke to NYSOH's Account Review Unit and appealed that determination insofar as you were not eligible to receive financial assistance to help pay for the cost of health insurance.

On February 1, 2017, NYSOH issued a notice of eligibility determination, based on the January 31, 2017 application, stating you were eligible to purchase a qualified health plan at full cost, effective March 1, 2017. The notice indicated you were not eligible for Medicaid, the Essential Plan, or to receive APTC, because the income amount listed in your application was over the allowable income limit for those programs.

On July 13, 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 to allow you to submit supporting documents.

On July 13, 2017, NYSOH Appeals Unit received the requested documentation and it was incorporated into the record as Appellant's Exhibit [REDACTED]. The record closed thereafter.

Findings of Fact

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

- 1) NYSOH received your initial application for financial assistance with health insurance on January 30, 2017. That application included an annual attested income amount of \$48,000.00.
- 2) NYSOH determined you ineligible for financial assistance based on the income information in your application.
- 3) On January 31, 2017, you submitted an updated application. That application listed the same income information as the previous application. Again, NYSOH determined you ineligible for financial assistance based on your income.
- 4) You testified the income information listed in the January 30, 2017 and January 31, 2017 applications was accurate.
- 5) Based on your attested annual income of \$48,000.00, the system calculated your monthly gross income as \$4,000.00. You testified this was accurate, because you make just under \$4,000.00 gross each month. You testified you made just under \$4,000.00 in the month of January 2017.

- 6) Both applications indicated you would file your 2017 tax return with a tax filing status of “married filing single” and you will claim no dependents. You testified that information was accurate.
- 7) Both your applications indicated you will not be taking any deductions on your 2017 tax return.
- 8) You testified you will take a student loan interest deduction on your 2017 tax return in an amount equal to the amount of the deduction you took in 2016. You were not sure of the amount of the deduction so you were directed to submit your 2016 income tax return as proof of the amount of the student loan interest deduction you intend to take on your 2017 tax return. You testified you were not sure why you did not include the deduction in your January 2017 applications.
- 9) On July 13, 2017, NYSOH Appeals Unit received a copy of the first page of a Form 1040 from your 2016 tax return indicating you deducted \$2,500.00 for student loan interest in 2016.
- 10) The first page of the Form 1040 from your 2016 tax return indicated your tax filing status in 2016 was Head of Household with qualifying dependent and that you claimed your daughter as a dependent in that tax year.
- 11) You testified you are currently paying college tuition for your daughter and you may take a tuition and fees deduction on your 2017 tax return, but you were unsure of the amount, because you did not take a similar deduction in 2016.
- 12) Your applications indicate you live in [REDACTED]
- 13) You testified you are appealing your eligibility insofar as you are not eligible for any financial assistance.
- 14) You testified that you have bills including rent, cable, and cell phone that you think should be deducted from your household income in determining your eligibility for financial assistance.

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

Applicable Law and Regulations

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2017 is set by federal law at 2.04% to 9.69% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc.2016-24).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2016 FPL, which is \$11,880.00 for a one-person household (81 Federal Register 4036).

For annual household income in the range of at least 300% but less than 400% of the 2016 FPL, the expected contribution is 9.69% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2016-24).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on NYSOH application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those

who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

Additionally, a tax filer who is married must generally file a joint return with his or her spouse to qualify for APTC (45 CFR § 155.305(f), 45 CFR § 155.310(d); 26 CFR § 1.36B-2).

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 \$11,880.00 for a one-person household (81 Fed. Reg. 4036).

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)).

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 2017 FPL, which is \$12,060.00 for a one-person household (82 Fed. Reg. 8831).

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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 funds 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.

Legal Analysis

The first issue under review is whether NYSOH properly determined you were not eligible to receive advance payments of the premium tax credit.

The eligibility determination notice issued by NYSOH on February 1, 2017 indicated you were not eligible to receive APTC, because the income amount you listed in your application of \$48,000.00 was over the allowable income limit to qualify for that program. You appealed that eligibility determination insofar as you were not eligible to receive financial assistance.

According to your account, the applications filed on January 30, 2017 and January 31, 2017 indicated your tax filing status for 2017 was married filing single. At the hearing, you confirmed this information and testified that you intend to file your 2017 tax return with a tax filing status of married filing single.

According to the above regulations, a tax filer who is married must generally file a joint return with his or her spouse in order to qualify for APTC.

An individual will be treated as not married at the close of the taxable year if the individual is legally separated from his/her spouse under a decree of divorce or of

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separate maintenance, or meets all of the following criteria: files a separate return from his/her spouse and maintains his or her household as the primary home for a qualifying child; pays more than one half of the cost of keeping up his or her home for the tax year; and does not have his or her spouse as a member of the household during the last six months of the tax year.

You submitted the first page of a Form 1040 from your 2016 tax return as evidence of the amount of the student loan interest deduction you intend to take in 2017. However, that document indicated you filed your 2016 taxes with a tax filing status of Head of Household with a qualifying dependent and claimed your daughter as a dependent on that return. According to the regulations, one exception to the requirement that married persons file a joint tax return in order to receive APTC is if the applicant filing separately maintains his or her household as the primary home for a qualifying child. Although the evidence establishes this exception existed in 2016, there is no evidence to establish you will maintain your household as the primary home for a qualifying child in 2017. Both the January 30, 2017 and the January 31, 2017 applications state you will file your 2017 tax return with a tax filing status of married filing single and that you will claim no dependents on that tax return. Further, at the hearing, upon questioning, you explicitly testified that you plan to file your 2017 tax return with a tax filing status of married filing single and you will claim no dependents on that tax return.

Since there is no evidence in the record that you are legally separated from your spouse under a decree of divorce or separation, nor is there any evidence to establish that you qualify for any other such exception, you are not eligible to receive APTC, because you will file your 2017 tax return with a tax filing status of married filing single.

It is noted that although NYSOH determined you ineligible for APTC based on your attested income amount being over the allowable limit for the program, NYSOH will not review the determination on this ground, because the evidence establishes you were not eligible to receive APTC based on your tax filing status.

The second issue under review is whether NYSOH properly determined you were not eligible for the Essential Plan.

Both applications filed January 30, 2017 and January 31, 2017 indicated your annual income was \$48,000.00. Although your applications indicated you would not take any deductions on your 2017 tax return you credibly testified you took a student loan interest deduction in 2016 and you intended to take the same deduction in 2017. You submitted documentation establishing the amount of the student loan interest deduction you took in 2016 was \$2,500.00. Accordingly, the evidence establishes you will take a \$2,500.00 student loan interest deduction in 2017 reducing your modified adjusted gross income to \$45,500.00.

Although you confirmed the income information listed in your applications was accurate, you testified that you have bills including rent, cable, and cell phone that should be considered and deducted from the amount of income used to determine your eligibility for financial assistance with health insurance. However, since the Internal Revenue Service rules do not allow living expenses such as rent, utilities, cable and phone to be deducted from the calculation of your adjusted gross income, they cannot be deducted when the NYSOH computes your modified adjusted gross income for APTC purposes. Therefore, the record establishes your modified adjusted gross income for the purposes of determining your eligibility for health coverage through NYSOH, as of January 31, 2017, was \$45,500.00.

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. As discussed above, you testified, and your applications indicate, you will file your 2017 tax return with a tax filing status of married filing single and you will claim no dependents on that tax return. Accordingly, you are in a one-person household. On the date of your application, the relevant FPL was \$11,880.00 for a one-person household. Since an annual household income of \$45,500.00 is 383% of the 2016 FPL, NYSOH properly found you to be eligible for the Essential Plan.

The third issue is whether NYSOH properly determined you were ineligible 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 \$12,060.00 for a one-person household. Since \$45,500.00 is 377.28% of the 2017 FPL, NYSOH properly found you ineligible for Medicaid on an expected annual income basis, using the information provided 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.

Based on your attested annual income of \$48,000.00 the system calculated your monthly gross income as \$4,000.00. You testified this was accurate, because you make just under \$4,000.00 gross each month. You testified you made just under \$4,000.00 in the month of January 2017.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,387.00 per month. Based on your testimony and the information you listed in your January 2017

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applications, you earned approximately \$4,000.00 in January 2017, which is well over the income limit of \$1,387.00 needed to qualify for Medicaid on the basis of monthly income as of the date of your application.

Therefore, since the February 1, 2017 eligibility determination properly stated that, based on the information you provided, you were eligible to purchase a qualified health plan at full cost and not eligible for APTC, Medicaid, or the Essential Plan, it is correct and must be AFFIRMED.

Decision

The February 1, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: July 20, 2017

How this Decision Affects Your Eligibility

You remain eligible to purchase a full cost qualified health plan.

You are not eligible for APTC, the Essential Plan, or Medicaid based on the information in your January 2017 applications.

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:

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- 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 February 1, 2017 eligibility determination notice is AFFIRMED.

You remain eligible to purchase a full cost qualified health plan.

You are not eligible for APTC, the Essential Plan, or Medicaid based on the information in your January 2017 applications.

Legal Authority

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

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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 مجانًا.

বাংলা (Bengali)

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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।

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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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