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

Notice of Decision

Decision Date: June 09, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000015399

[redacted]

Dear [redacted]

On April 28, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 19, 2017 eligibility determination on the basis that NYSOH failed to issue a timely 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 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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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: June 09, 2017

NY State of Health Account ID: [redacted]
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[redacted]

Issues

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

> Did NY State of Health provide you with timely notice of an eligibility determination regarding your application for financial assistance?
>
> Did NY State of Health properly determine that you were eligible for the Essential Plan effective January 1, 2017?

Procedural History

On December 29, 2015, NY State of Health (NYSOH) issued an eligibility determination notice that stated you were eligible for Medicaid effective January 1, 2016. You were enrolled in a Medicaid Managed Care (MMC) plan effective February 1, 2016.

On October 21, 2016, NYSOH issued a renewal notice stating that it was time to renew your health insurance for the upcoming coverage year. That notice stated that you qualified to enroll in the Essential Plan with a $20.00 monthly premium effective January 1, 2017. This was based on federal and state data sources showing that your income was between $17,820.00 and $23,760.00. The notice further stated that NYSOH enrolled you in Essential Plan 1 because this plan was similar to the coverage you had before with the same insurance company. The notice stated that you needed to pick a plan between November 16, 2016 and December 15, 2016.

On November 18, 2016, NYSOH issued a plan enrollment notice confirming your enrollment in an Essential Plan 1 at a $20.00 monthly premium with a plan start date of January 1, 2017.

On November 22, 2016, NYSOH received your updated application for financial assistance for health insurance.

On November 23, 2016, NYSOH issued a notice stating that the income information in your application did not match what NYSOH received from state and federal data sources. You were asked to submit income documentation for your household by December 7, 2016.

On November 30, 2016, you faxed income documentation to NYSOH. This fax contained a cover letter with your name, account number and referenced two pay stubs. These pay stubs were uploaded to your NYSOH account on December 7, 2016 (*see* Document [redacted]).

On December 9, 2016, you updated your NYSOH account.

On December 10, 2016, NYSOH issued a notice stating that the income information in your application did not match what NYSOH received from state and federal data sources. You were asked to submit income documentation for your household by December 7, 2016.

On December 14, 2016, you faxed documentation to NYSOH. This fax contained a cover letter with your name, account number and referenced four pay stubs, which were uploaded to your NYSOH account on December 23, 2016 (*see* Document [redacted] and [redacted]). This documentation was not verified or validated by NYSOH.

On January 18, 2017 NYSOH issued an eligibility redetermination notice stating that you were not eligible for Medicaid, Child Health Plus, the Essential Plan or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. The reason stated was because NYSOH had not received the requested income documentation needed to verify the income listed in your application, the date to send this information had passed, and it could not determine if you were eligible for help paying for health coverage without this information.

On January 18, 2017 and January 19, 2017, you updated your NYSOH account.

On January 19, 2017, you uploaded to your NYSOH account a pay stub dated December 30, 2016 (*see* Document [redacted]).

Also on January 19, 2017 and January 20, 2017, NYSOH issued notices stating that the income information in your application did not match what NYSOH

received from state and federal data sources. You were asked to submit income documentation for your household by February 2, 2017.

On February 1, 2017, you contacted the NYSOH Account Review Unit and requested an appeal because you had submitted proof of income and still had not received an eligibility determination on your applications for health insurance. You also requested aid to continue in your MMC plan during the appeals process.

On February 6, 2017, NYSOH granted your request for aid to continue for the period from January 1, 2017 to December 31, 2017 pending the outcome of your appeal.

On February 7, 2017, NYSOH issued eligibility redetermination and plan enrollment notices confirming that aid to continue had been granted pending outcome of appeal and that you were enrolled in your MMC plan effective January 1, 2017 (*see* Incident[redacted]).

On April 28, 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 until May 12, 2017 to allow you to submit supporting documentation.

On May 7, 2017, NYSOH Appeals Unit received via secure facsimile your twenty-three-page submission, which included a cover page and paystubs from December 2016 through April 21, 2017. That document was made part of the record as "Appellant's Exhibit # 1." 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 2016 and 2017 taxes with a tax filing status of single and will not claim any dependents on those tax returns.

2) You are seeking insurance for yourself.

3) The application that was submitted on November 22, 2016, in which you requested financial assistance, listed annual household income of $14,637.77. You testified that this was a projected income at the time of $21,637.78 less deductions of $7,000.00.

4) The November 23, 2016 and December 10, 2016, eligibility redetermination notices informed you that you had to submit additional income documentation to verify your income on your application.

5) According to your NYSOH account and your testimony, on November 30, 2016, you submitted via facsimile, copies of two consecutive paystubs for four weeks of employment to NYSOH for verification of the income stated in your November 22, 2016 application. Those pay stubs were uploaded to your NYSOH account on December 7, 2016, but were not verified by NYSOH.

6) The first pay stub was dated November 4, 2016 for pay period 10/16/2016 to 10/29/2016 with gross earnings of $676.04, and year-to-date earnings of $20,406.22. The second pay stub was dated November 18, 2016 for pay period 10/30/2016 to 11/12/2016 with gross earnings of $732.06 and year-to-date earnings of $21,138.28.

7) According to your NYSOH account and your testimony, on December 14, 2016, you submitted via facsimile, documentation of four consecutive paystubs for eight weeks of employment to NYSOH for verification of the income stated in your December 9, 2016 application. Those pay stubs were uploaded to your NYSOH account on December 23, 2016, but were not verified by NYSOH.

8) The first pay stub, dated October 7, 2016, for pay period 09/18/2016 to 10/01/2016 showed gross earnings of $1,284.84 and year-to-date earnings of $18,923.42. The second pay stub, dated October 21, 2016, for pay period 10/02/2016 to 10/15/2016 showed gross earnings of $806.76 and year-to-date earnings of $19,703.18. The third and fourth pay stubs were the same pay stubs dated November 4, 2016 and November 18, 2016 which you submitted on November 30, 2016.

9) According to your NYSOH account, on January 19, 2017, you uploaded your December 30, 2016 pay stub showing year-to-date gross earnings for 2016 of $23,177.60. You testified that this was an accurate reflection of your 2016 income. You testified that you expect your 2017 income to be about the same.

10) You testified that you want to have your eligibility for financial assistance for health insurance determined based on your timely submission of income documentation to NYSOH.

11) According to your NYSOH account and your testimony, you live in Queens County, New York.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the individual's projected eligibility as well as the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

Verification Process

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 (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945).

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 (45 CFR §155.315(f) 42 CFR § 435.952).

Timely Notice

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 FR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)).

However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then

NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

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)). For eligibility in 2017, that was the 2016 FPL, which is $11,880.00 for a one-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 (New York's Basic Health Plan Blueprint, as approved January 2016).

Legal Analysis

The first issue under review is whether NYSOH's failed to provide a timely determination of your eligibility for health insurance upon renewal.

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.

On October 21, 2016, NYSOH issued a renewal notice indicating in part that you were determined eligible for the Essential Plan, effective January 1, 2017. This was because federal and state data sources showed that your income was between $17,820.00 and $23,760.00.

However, on November 22, 2016, you updated your income to $14,637.77 on your application. NYSOH indicated in a November 23, 2016 notice that the income listed as listed on your November 22, 2016 application did not match the information it had obtained from federal and state data sources. As a result, NYSOH asked that you submit additional documentation to confirm your income.

On November 30, 2016, you submitted via facsimile, documentation of two consecutive paystubs for four weeks of employment to NYSOH for verification of the income stated in your November 22, 2016 application. Those pay stubs were uploaded to your NYSOH account on December 7, 2016. Again, on December 23, 2016 and January 19, 2017, you uploaded consecutive pay stubs as proof of your income.

The record reflects that NYSOH did not verify nor acknowledge receipt of the income documentation that was uploaded to your account on December 7, 2016, December 23, 2016, or January 19, 2017.

Review of the documentation uploaded to your account on December 7, 2016, demonstrates that there was sufficient income information at that time for NYSOH to render an eligibility determination.

NYSOH must provide applicants notice of their eligibility determination within a reasonable period from the date of the completed application. To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of the completed application to the date NYSOH notifies the applicant of its decision.

Since NYSOH has not verified any of the income documentation you have submitted, it did not issue an eligibility determination notice. Therefore, NYSOH has exceeded a reasonable time frame within which to issue an eligibility determination on your application for health insurance.

The second issue under review is whether you should have been determined fully eligible for the Essential Plan, effective January 1, 2017, based on the income documentation you provided as of November 22, 2016.

Generally, NYSOH must redetermine a qualified individual's eligibility for health insurance once every twelve months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency.

You are in a one-person household for purposes of this analysis. This is because you expect to file your 2016 income taxes as single and will claim no dependents on that tax return.

The updated application that you submitted on November 22, 2016, listed and annual household income of $14,637.77.

However, the paystubs that you submitted on November 30, 2016, December 14, 2016 and January 19, 2017 indicate that you are paid twice monthly on a regular basis. The December 30, 2016 pay stub indicates that your year-to-date income was $23,177.60. You testified at hearing that you expect your 2017 annual income to be comparable to this amount. Therefore, for purposes of this analysis, your projected income for 2017 is $23,177.60.

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. The 2016 FPL of $11,880.00 for a one-person household is the applicable amount used to determine eligibility for the Essential Plan in 2017.

Therefore, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance using an annual household income of $23,177.60 and a one-person household for an individual residing in Queens County, and to notify you accordingly.

On February 6, 2017, you were granted aid to continue and were re-enrolled in your MMC plan from the previous policy period, effective January 1, 2017 and pending the outcome of your appeal.

Once your eligibility has been redetermined, NYSOH is further directed to assist you in enrolling in an appropriate health plan. Your coverage in your MMC plan under aid to continue will remain until enrollment in an Essential Plan is effectuated.

Decision

NYSOH has exceeded a reasonable time frame in which to issue an eligibility determination on your application for health insurance.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance using an annual household income of $23,177.60 and a one-person household for an individual residing in Queens County, and to notify you accordingly.

NYSOH is further directed to assist you in enrolling in an appropriate health plan. Your coverage in your MMC plan under aid to continue will remain until enrollment in an appropriate health plan is effectuated without any gap in coverage.

Effective Date of this Decision: June 09, 2017

How this Decision Affects Your Eligibility

Your case is being sent back to redetermine your eligibility for financial assistance based on the household income and size noted above. NYSOH will notify once this has occurred.

Your coverage in your MMC plan will continue until your enrollment in an appropriate health plan can be effectuated without any gap in coverage. NYSOH will assist you with your enrollment in such health plan.

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

NYSOH has exceeded a reasonable time frame in which to issue an eligibility determination on your application for health insurance.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance using an annual household income of $23,177.60 and a one-person household for an individual residing in Queens County, and to notify you accordingly.

NYSOH is further directed to assist you in enrolling in an appropriate health plan. Your coverage in your MMC plan under aid to continue will remain until enrollment in an appropriate health plan is effectuated without any gap in coverage.

Your case is being sent back to redetermine your eligibility for financial assistance based on the household income and size noted above. NYSOH will notify once this has occurred.

Your coverage in your MMC plan will continue until your enrollment in an appropriate health plan can be effectuated without any gap in coverage. NYSOH will assist you with your enrollment in such health plan.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

[redacted]

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 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 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.

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).