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

Notice of Decision

Decision Date: May 19, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000015467

[redacted]

Dear [redacted],

On April 27, 2017, you both appeared by telephone at a hearing on your appeal of NY State of Health's January 13, 2017 eligibility determination notice.

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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DEPARTMENT OF HEALTH
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Decision

Decision Date: May 19, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000015467

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Issue

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

> Did NY State of Health (NYSOH) properly determine that you and your spouse were no longer eligible for Essential Plan and eligible for Medicaid through NYSOH as of January 1, 2017?

Procedural History

On December 2, 2016, NYSOH issued an eligibility determination notice, based on the information contained in the December 1, 2016 application, stating that you and your spouse were eligible for the Essential Plan for a limited time, effective January 1, 2017. That notice further stated that you must provide proof of income to confirm your eligibilities by February 28, 2017.

On December 1, 2016, December 5, 2016, December 21, 2016 and December 22, 2016, you submitted proof of income to NYSOH, which were subsequently validated by NYSOH on January 12, 2017 (*see* Documents [redacted].

On January 13, 2017, NYSOH issued an eligibility redetermination notice stating that you and your spouse were eligible for Medicaid, effective January 1, 2017.

On January 23, 2017, NYSOH issued a plan enrollment notice confirming that you and your spouse were enrolled in a Medicaid Managed Care plan effective March 1, 2017.

On February 2, 2017, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination as it related to your eligibility for Medicaid.

On April 27, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open until May 12, 2017 for you to submit proof of your income for the month of January 2017.

On April 27, 2017, the Appeals Unit received statements of brokerage accounts, proof of income for December 2016 (including your last paystub), proof of income for January 2017, and proof of income for March 2017. These documents were made part of the record as "Appellant's Exhibit A". No further documentation was received as of May 12, 2017 and the record was closed that same day.

Findings of Fact

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

1) According to your NYSOH account and your testimony, you expect to file your 2017 taxes with a tax filing status of married filing jointly. You will claim no dependents on that tax return.

2) You are seeking insurance for yourself and your spouse.

3) The application that was submitted on December 1, 2016 listed annual expected household income of $29,460, consisting of $26,000.00 you expect to take out of your IRA at the end of the year, plus expected interest earnings of $4,450.00 and dividend earnings of $2,000.00. Your spouse testified these amounts were correct.

4) You testified, and submitted documentation to show, that you have not worked since November 2016. Your final paycheck was dated mid-December 2016.

5) Your spouse further testified that you do not work and that your interest and dividends are the only household income that you and your spouse are receiving.

6) According to your NYSOH account, based on your 2015 income tax return, NYSOH determined your 2017 expected household income to be $2,947.00, consisting of ordinary dividends income of $2,051.00, interest

income of $4,307.00 and taxable refunds of $639.00 for a total of $6,997.00 less allowable deductions of $3,000.00 (carryover loss) and $1,050.00 (health savings account deduction).

7) Your spouse testified that your household income in January 2017 will reflect close to $0.00 for that month. This is because you received your last paycheck in December 2016 and will not receiving any monthly retirement or pension benefits in January 2017. You and your spouse will only receive dividend earnings and interest payments in that month.

8) On April 27, 2017, the Appeals Unit received statements of brokerage accounts, income for January 2017 and your spouse's last paystub. This record reflects that you had have a household income of $391.49 for the month of January 2017 (*see* Appellant's Exhibit A, pp. 1-4).

9) Your spouse testified that you wanted your Essential Plan reinstated because you are afraid that you and your spouse were incorrectly redetermined eligible for Medicaid and are afraid of any repercussions.

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

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 noncitizen 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 2015 FPL, which is $15,930.00 for a two-person household (80 Fed. Reg. 3236, 3237).

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)).

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)).

General Deductions

"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.

Health Savings Account Deduction

"Adjusted gross income" is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, deductions that are attributable to a health savings account are deducted from a taxpayers adjusted gross income (26 USC § 62 (a)(19)).

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 $16,020.00 for a two-person household (81 Fed. Reg. 4036).

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).

Legal Analysis

The first issue under review is whether NYSOH properly redetermined that you were no longer eligible for Essential Plan and eligible for Medicaid through NYSOH as of December 1, 2016.

The application that was submitted on December 1, 2016 listed annual of $29,460.00, consisting of $26,000.00 you expect to take out of your IRA at the end of the year, plus expected interest earnings of $4,450.00 and dividend earnings of $2,000.00. Your spouse testified these amounts were correct.

However, NYSOH based your 2017 income calculation based on your letter from your employer indicating you were no longer employed and your 2015 income tax return, which shows your 2017 expected income to be $2,947.00, consisting of ordinary dividends income of $2,051.00, interest income of $4,307.00 and taxable refunds of $639.00 for a total of $6,997.00 less allowable deductions of $3,000.00 (carryover loss) and $1,050.00.00 (health savings account deduction). The record reflects that your spouse has no income.

This information was relied upon by NYSOH when it determined your eligibility for financial assistance in the upcoming policy period, even though in your December 1, 2016 application you attested to $29,450.00 in expected 2017 household income, which includes an expected lump sum distribution of your IRA plus your expected interest and dividends. Your spouse testified this is correct.

Although, NYSOH improperly determined your expected 2017 annual household income to be $2,947.00, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

You and your spouse credibly testified and submitted proof of income for the month of January 2017 that shows in January 2017, you and your spouse received $391.49 in dividend in interest income (*see* Appellant's Exhibit A, pp. 1-4).

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the 2016 FPL of $16,020.00, which is

$1,843.00 per month. Since the documentation you provided shows that you and your spouse earned $391.49 in January 2017 and you have no income that month, you and your spouse qualified for Medicaid based on monthly income as of the date of your updated application.

Since the January 13, 2017 eligibility determination notice properly stated that you and your spouse were eligible for Medicaid, it is correct and is AFFIRMED.

Decision

The December 13, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: May 19, 2017

How this Decision Affects Your Eligibility

You and your spouse were not eligible for the Essential Plan.

You and your spouse were eligible for Medicaid as of January 1, 2017, and were enrolled in a Medicaid Managed Care plan as of March 1, 2017.

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
  P.O. Box 11729
  Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The January 13, 2017 eligibility determination notice is AFFIRMED.

You and your spouse were not eligible for the Essential Plan.

You and your spouse were eligible for Medicaid as of January 1, 2017, and were enrolled in a Medicaid Managed Care plan as of March 1, 2017.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[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)

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).

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 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)

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).

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).