



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

Notice of Decision

Decision Date: June 15, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015541

[REDACTED]

Dear [REDACTED],

On May 16, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's January 28, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: June 15, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015541

[REDACTED]

Issues

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

Did NY State of Health (NYSOH) provide a timely determination of your Essential Plan eligibility as of January 28, 2017?

Did NYSOH properly determine that you were eligible for the Essential Plan 1, with a \$20.00 per month premium, effective March 1, 2017?

Procedural History

On December 15, 2016, you submitted an updated application for financial assistance.

On December 16, 2016, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income information you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit income documentation for your household by December 28, 2016.

On December 23, 2016, you updated your application for financial assistance.

On December 24, 2016, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income information you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit income documentation for your household by December 28, 2016.

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On December 28, 2016, you submitted an undated letter from your employer, which stated that you earned \$18.28 an hour, and that you worked 40 hours each week. This document was invalidated on January 3, 2017.

On January 4, 2017, NYSOH issued a notice stating that the documentation you submitted was insufficient to prove your income. You were directed to submit further documentation by January 27, 2017.

On January 5, 2017, you updated your application for financial assistance.

On January 6, 2017, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income information you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit income documentation for your household by January 27, 2017.

On January 19, 2017, you updated your application for financial assistance.

On January 20, 2017, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income information you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit income documentation for your household by January 27, 2017.

Also on January 20, 2017, you updated your application for financial assistance and submitted a letter dated January 5, 2017 from your employer, stating that you earned \$18.28 an hour, and that you worked 40 hours a week. The letter also stated that you worked at [REDACTED], and that your schedule followed their calendar, recognizing holidays and breaks.

On January 21, 2017, NYSOH issued a notice of eligibility determination, stating that you were eligible for the Essential Plan with a \$0.00 monthly premium for a limited time, effective March 1, 2017.

Also on January 21, 2017, NYSOH issued a notice of enrollment confirmation, stating that your enrollment in the Essential Plan was effective March 1, 2017.

On January 27, 2017, your income documentation was verified as sufficient proof of income and an application was submitted on your behalf.

On January 28, 2017, NYSOH issued a notice of eligibility determination, stating that you were eligible for the Essential Plan with a \$20.00 per month premium, effective March 1, 2017.

On February 3, 2017, you spoke to NYSOH's Account Review Unit and appealed your eligibility, insofar as you were not determined eligible for the Essential Plan 2 with a \$0.00 per month premium, with a start date of January 1, 2017.

On May 16, 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 May 31, 2017, to allow you to submit supporting documents.

As of May 31, 2017, the Appeals Unit did not receive any documents from you and none were viewable in your NYSOH account. Therefore, the record was closed that same day and this decision is based on the record as developed at the time of the hearing.

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 separately. You will claim two dependents on that tax return.
- 2) You are seeking insurance for yourself, specifically the Essential Plan 2 with a January 1, 2017 start date.
- 3) The application that was submitted on January 27, 2017 listed annual household income of \$38,022.00, consisting of income you earn from your employment. You testified that this amount was incorrect, and that you expected to earn \$31,541.60 in 2017.
- 4) You testified that your employer did not have hours for you from January through March 2017, but that your employment was not terminated.
- 5) You testified that you anticipate working 43 weeks this year. You did not provide documentation to confirm this.
- 6) On December 28, 2016, you submitted one undated letter from your employer, stating that you were employed with [REDACTED], hired on August 3, 2016. The letter stated that you were a full-time employee working 40 hours a week, earning \$18.28 per hour.
- 7) On January 20, 2017, you submitted a letter from your employer dated January 5, 2017, stating that you were a full-time employee with [REDACTED] working at [REDACTED]. You earned \$18.28 per hour, and your employment followed the [REDACTED] calendar, recognizing holidays and breaks.

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- 8) Your application states that you will not be taking any deductions on your 2017 tax return.
- 9) Your application states that you live in Bronx County.

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

Applicable Law and Regulations

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 of Essential Plan Eligibility

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 CFR § 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)).

NYSOH uses the same timeliness standards for eligibility determinations for the Essential Plan as for Medicaid (42 CFR §600.320(b)). NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

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

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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 \$24,300.00 for a four-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).

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)).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see also 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

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Legal Analysis

The first issue under review is whether NYSOH provided you with a timely determination of your Essential Plan eligibility as of January 28, 2017.

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

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

You updated your NYSOH account multiple times: on November 28, 2016, December 15, 2016, December 23, 2016, January 5, 2017, January 19, 2017, and January 20, 2017. The income amount that was entered into those applications did not match federal and state data sources. As a result, NYSOH asked that you submit additional documentation to confirm your income.

On December 28, 2016, you uploaded an undated letter from your employer.

On January 3, 2017, NYSOH deemed that letter insufficient proof of income.

On January 20, 2017, you uploaded a letter from your employer dated January 5, 2017, which stated that you earn \$18.28 per hour as a full-time employee, working 40 hours a week.

Therefore, your application was considered complete as of January 20, 2017 for the purposes of issuing an eligibility determination.

NYSOH must provide Medicaid and Essential Plan applicants notice of their eligibility determination within 45 days 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.

The record reflects that NYSOH received your complete application for health insurance on January 20, 2017 after receiving your acceptable income documents. NYSOH issued an eligibility determination notice on January 28, 2017 that stated you were eligible for the Essential Plan 1 with a \$20.00 per month premium, effective March 1, 2017. Since NYSOH issued an eligibility determination 8 days from the date your application was considered complete, the January 28, 2017, eligibility determination was timely.

The second issue under review is whether NYSOH properly determined that you were eligible for the Essential Plan 1 with a \$20.00 per month premium, effective March 1, 2017.

You are in a four-person household. You expect to file your 2017 income taxes as married filing separately and will claim two dependents on that tax return.

The application that was submitted on January 28, 2017 listed an annual household income of \$38,022.00 and the eligibility determination relied upon that information. That income was calculated based on the January 5, 2017 letter from your employer (\$18.28 x 40 hours per week x 52 weeks). Although you testified that you expect to work only 43 weeks in 2017, you did not provide documentation to support your testimony. Therefore, NYSOH properly relied on an annual expected household income of \$38,022.00 when determining your eligibility.

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. 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. On the date of your application, the relevant FPL was \$24,300.00 for a four-person household. Since an annual household income of \$38,022.00 is 156.47% of the 2016 FPL, NYSOH properly found you to be eligible for the Essential Plan 1, with a \$20.00 per month premium.

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month. For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month. Since you were notified of your eligibility for the Essential Plan 1 on January 28, 2017, you would have been able to select a plan that day. Because January 28, 2017 falls between the sixteenth and the last day of the month, your coverage would be effective the first day of the second following month, or March 1, 2017.

Therefore, the January 28, 2017 eligibility determination notice stating that you are eligible for the Essential Plan 1 with a \$20.00 per month premium, effective March 1, 2017 is correct and AFFIRMED.

You testified that the income information as provided in the January 27, 2017 application was not correct. However, you did not provide documentation regarding your anticipated earnings in 2017, and your eligibility cannot be redetermined based on your testimony alone. If you can produce documentation

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from your employer regarding the number of weeks you expect to work in 2017, please submit it to NYSOH within 30 days of this Decision. If sufficient documentation is received, NYSOH is directed to redetermine your eligibility for financial assistance. In the alternative, if the information in your application is not correct, please update your application accordingly.

Decision

The January 28, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: June 15, 2017

How this Decision Affects Your Eligibility

You were properly determined eligible for the Essential Plan 1 with a \$20.00 per month premium, effective March 1, 2017.

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

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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 January 28, 2017 eligibility determination notice is AFFIRMED.

You were properly determined eligible for the Essential Plan 1 with a \$20.00 per month premium, effective 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:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई 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&etumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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