



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

## Notice of Decision

Decision Date: June 13, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015753

[REDACTED]

Dear [REDACTED],

On May 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's failure to issue a timely 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 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 13, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015753

[REDACTED]

## Issue

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

Did NY State of Health provide a timely determination of your Medicaid eligibility?

## Procedural History

On November 8, 2016, NY State of Health (NYSOH) received your application for financial assistance with your health insurance.

On November 9, 2016, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income documentation 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 November 23, 2016.

Also on November 9, 2016, you uploaded income documentation to your NYSOH account (See [REDACTED], [REDACTED], [REDACTED]).

On December 20, 2016, an eligibility determination notice was issued stating you were eligible to purchase a qualified health plan at full cost, effective February 1, 2017. The notice stated you were not eligible for Medicaid because NYSOH did not receive the requested information to verify your income by the due date.

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

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On December 23, 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 January 6, 2017.

On February 2, 2017, an eligibility determination notice was issued stating you were eligible to purchase a qualified health plan at full cost, effective March 1, 2017. The notice stated you were not eligible for Medicaid because NYSOH did not receive the requested information to verify your income by the due date.

Also on February 2, 2017, NYSOH received your updated application for financial assistance.

On February 3, 2017, NYSOH received a letter from you dated February 3, 2017 (See Document [REDACTED]).

On February 3, 2017, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income documentation 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 February 17, 2017.

On February 10, 2017, you contacted the NYSOH Account Review Unit and requested an appeal because of NYSOH's failure to issue a timely determination of your Medicaid eligibility.

On May 10, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open 15 days for you to provide income documentation.

On May 13, 2017, you uploaded a copy of your 2015 tax return to your NYSOH account. On May 17, 2017, NYSOH Appeals Unit received your 2015 tax return in the form of a 2-page fax and has been incorporated into 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) According to your NYSOH account, NYSOH received your initial application for financial assistance on November 8, 2016.

- 2) Your November 8, 2016 application states you will be claiming your 2017 taxes as single and will claim no dependents. You testified this was true.
- 3) Your November 8, 2016 application states you have an annual household expected income of \$3,500.00. You testified this was correct.
- 4) You testified your only current source of income is dividends which you earn from an investment account.
- 5) On November 9, 2016, NYSOH received a letter from you stating you had been working in [REDACTED] for the last 15 years and were to return to the U.S. sometime at the start of 2017. The letter states you resigned from [REDACTED] in October 2015 and received unemployment in Germany until July 2016. The letter says you receive interest income from a small investment account in the US, which you sent a 1099 for 2015, you could also send that information for 2016 if needed.
- 6) On November 9, 2016, you uploaded a letter from your [REDACTED] which was in [REDACTED].
- 7) On November 9, 2016, you uploaded a copy of your [REDACTED] 2015 1099 Form Dividends and Distributions, showing total ordinary dividends of \$2,115.75.
- 8) On May 17, 2017, NYSOH Appeals Unit received your additional income documentation in the form of a 2-page fax showing your 2015 1040 U.S. Individual Income Tax Return. The document states you had \$137,692 in wages, \$100,800.00 in foreign income, with an adjusted gross income on line 37 of \$39,830.00. See (Appellant's Exhibit 1, pg. 1).
- 9) Line 9a of your 2015 income tax return confirms that you received \$2,116.00 in ordinary dividends.
- 10) The record supports on December 16, 2016, a NYSOH representative added a note to your account that foreign language documents were submitted.
- 11) On February 21, 2017, your February 3, 2017 letter was invalidated by a NYSOH representative. The representative's notes in your account state you needed to provide a copy of a signed and dated 2015/16 1040 tax return.

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

## **Applicable Law and Regulations**

### Medicaid

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

Medicaid Managed Care plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H-6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see 42 USC § 1315; § 364-j(1)(c); 18 NYCRR § 360-10.3(h), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

### 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 Medicaid 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 must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

### Modified Adjusted Gross Income

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).

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)).

## Legal Analysis

The first issue is whether NYSOH provided you with a timely determination of your Medicaid eligibility.

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 on November 8, 2016. The income amount that was entered into this application of \$3,500.00 did not match federal and state data sources. As a result, NYSOH asked that you submit additional documentation to confirm your income.

On November 9, 2016, you uploaded a letter to your NYSOH account stating you had been working [REDACTED] for the last 15 years and were to return to the U.S. sometime at the start of 2017. The letter states you resigned from [REDACTED] company in October, 2015 and received unemployment in Germany until July, 2016. Your November 9, 2016 letter further states you receive interest income from a small investment account in the US, which you sent a 1099 for 2015, you could also send that information for 2016 if needed. A copy of your 1099 form from [REDACTED] was uploaded that day as well showing total dividends of \$2,115.75. You also uploaded a letter from [REDACTED] which was in Italian. You testified this documentation is proof of your separation [REDACTED].

NYSOH must provide Medicaid 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.

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).

The earliest indication in your account that a NYSOH reviewed the income documentation you provided was on February 21, 2017 in which your February 3, 2017 letter was invalidated by a NYSOH representative. The representative's notes in your account state you needed to provide a copy of a signed and dated 2015/16 1040 tax return.

The only other action on your account was in relation to your submitted letter from your employer showing you had separated. The note in your account made on December 16, 2016, wherein a NYSOH representative added a note stating foreign a language document had been submitted. There was no resolution or note that the language had been interpreted and reviewed.

NYSOH was to provide a determination on the documentation you submitted within 45 days from November 9, 2016, or by December 24, 2016. The determinations issued after your November, 9, 2016 submissions only stated that the income information in your application did not match state and federal data sources, or that NYSOH "had not received the requested information in to verify your income by the due date."

There is no indication in your account that the income documentation you provided on November 9, 2016 was ever fully verified or invalidated within the 45-day time frame.

Therefore, NYSOH failed to make a timely determination of your Medicaid eligibility based on the documentation you provided.

On May 17, 2017, NYSOH Appeals Unit received your additional income documentation in the form of a 2-page fax showing your 2015 1040 U.S. Individual Income Tax Return. The document states you had \$137,692.00 in wages, \$100,800.00 in foreign income, with an adjusted gross income on line 37 of \$39,830.00.

Therefore, your case is RETURNED to NYSOH to review and verify the income documentation you provided in November and after the conclusion of your hearing. NYSOH is directed to review [REDACTED] and [REDACTED] in order to determine what your expected annual modified adjusted gross income is for 2017 and to determine your eligibility accordingly. You may be required to provide updated information on the amount of foreign interest you intend to receive and claim on your tax return in 2017.

## **Decision**

NYSOH failed to make a timely determination of your Medicaid eligibility based on the documentation you provided.

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).



Your case is RETURNED to NYSOH to review and verify the income documentation you provided in November and after the conclusion of your hearing. NYSOH is directed to review [REDACTED] in order to determine what your expected annual modified adjusted gross income is for 2017 and to determine your eligibility accordingly. You may be required to provide updated information on the amount of foreign interest you intend to receive and claim on your tax return in 2017.

**Effective Date of this Decision:** June 13, 2017

### **How this Decision Affects Your Eligibility**

This is not a final determination of your eligibility for Medicaid.

NYSOH directed to review the additional documentation you provided.

### **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

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).

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 failed to make a timely determination of your Medicaid eligibility based on the documentation you provided.

Your case is RETURNED to NYSOH to review and verify the income documentation you provided in November and after the conclusion of your hearing. NYSOH is directed to review [REDACTED] in order to determine what your expected annual modified adjusted gross income is for 2017 and to determine your eligibility accordingly. You may be required to provide updated information on the amount of foreign interest you intend to receive and claim on your tax return in 2017.

This is not a final determination of your eligibility for Medicaid.

NYSOH directed to review the additional documentation you provided.

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).

## **Legal Authority**

We are issuing this determination in accordance with 45 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).

**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)**

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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### **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&tumi 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.

### **שׂוּדִישׁ (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).