



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

## Notice of Decision

Decision Date: August 2, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015970

[REDACTED]

Dear [REDACTED]

On June 28, 2017, you appeared by telephone, along with your Authorized Representative, at a hearing on your appeal of NY State of Health's February 18, 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 number 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.

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## Decision

Decision Date: August 2, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015970

[REDACTED]

## Issues

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

Did NY State of Health (NYSOH) properly determine that you were not eligible to receive Medicaid or the Essential Plan through NYSOH, as of February 17, 2017?

Did NYSOH properly determine that you were not eligible to receive advance payments of the premium tax credit (APTC) to assist with the cost of health insurance, as of February 17, 2017?

## Procedural History

On October 17, 2016, NYSOH issued a renewal notice stating that it was time to renew your application for health insurance through NYSOH for 2017. The notice directed you to update your application between November 16, 2016 and December 15, 2016, or the financial assistance you were receiving could end.

On October 28, 2016, you updated your NYSOH account and indicated that your tax filing status was "single."

On October 29, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a qualified health plan (QHP) at full cost, effective December 1, 2016. The notice stated that you did not qualify for Medicaid or the Essential Plan because you did not meet the income limits or other eligibility standards for these programs. You also did not qualify for Medicaid through NYSOH because you are over the age of 65. The notice further

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stated that you did not qualify for APTC or cost-sharing reductions because information was missing about your taxes. Finally, the notice stated that your information would be sent to your local Department of Social Services to determine your eligibility for Medicaid on a different basis.

On October 31, 2016, you updated your NYSOH account, and indicated in your application that you would not be filing a federal income tax return.

On November 1, 2016, NYSOH issued a notice stating that you were eligible to purchase a full cost QHP, effective December 1, 2016. The notice stating that you did not qualify for Medicaid or the Essential Plan because you did not meet the income limits or other eligibility standards for these programs. You also did not qualify for Medicaid through NYSOH because you are over the age of 65. It further stated that you did not qualify for APTC or cost-sharing reductions because you stated that you do not plan to file a federal tax return. Finally, the notice stated that your information would be sent to your local Department of Social Services to determine your eligibility for Medicaid on a different basis.

Also on November 1, 2016, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in a silver-level QHP with a monthly premium of \$374.10, beginning January 1, 2016.

On November 5, 2016, NYSOH issued a notice of disenrollment, stating that your enrollment in your QHP was terminated, effective September 30, 2016, because a premium payment was not received by your health plan.

On November 11, 2016, you updated your NYSOH application several times. The last application on that date indicated that you were applying for coverage for 2016, and that your tax filing status was "single."

On November 12, 2016, NYSOH issued a notice of eligibility determination stating that you were not eligible for Medicaid because your household income was over the allowable income limit, and you were receiving Medicare. You were not eligible for the Essential Plan because you were over 65 and/or receiving Medicare, and you were not eligible for APTC or cost sharing reductions because you were enrolled in Medicare and because NYSOH had not received information to verify your income. Lastly, the notice stated that you were not eligible to purchase a QHP at full cost because you were enrolled in Medicare.

On November 28, 2016, you updated your application, and again indicated that your tax filing status was "single."

On November 29, 2016, NYSOH issued a notice of eligibility determination identical to the notice issued on November 12, 2016.

On December 22, 2016, you updated your application, and again indicated that your tax filing status was “single.”

On December 23, 2016, NYSOH again issued a notice of eligibility determination identical to the notices issued on November 12 and November 29, 2016.

On February 17, 2017, you again updated your application and indicated that you will not be filing federal income taxes. That same day, NYSOH prepared a preliminary eligibility determination stating that you were not eligible to receive financial assistance with paying for your health insurance coverage.

Also on February 17, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination, insofar as you were not eligible for financial assistance through NYSOH.

On February 18, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a QHP at full cost, effective April 1, 2017. The notice stated that you did not qualify for Medicaid or the Essential Plan because you did not meet the income limits or other eligibility standards for these programs. You also did not qualify for Medicaid through NYSOH because you are over the age of 65. It further stated that you did not qualify for APTC or cost-sharing reductions because of one the of the following reasons: you stated that you do not plan to file a federal tax return; you are married and filing a tax return separately from your spouse; or APTC were paid on your behalf in a prior year and NYSOH could not tell whether you filed a federal tax return for that year. Finally, the notice stated that your information would be sent to your local Department of Social Services to determine your eligibility for Medicaid on a different basis.

On June 28, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, your son, [REDACTED], appeared as your Authorized Representative (AR) and provided sworn testimony on your behalf. The record was developed during the hearing and held open through July 28, 2017 to provide you with time to submit supporting documentation.

As of July 31, 2017, no documentation was received by the Appeals Unit, nor was documentation found in your NYSOH account. Therefore, the record is now closed.

## **Findings of Fact**

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

- 1) Your February 17, 2017 application stated that you do not plan to file a 2017 federal income tax return.

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- 2) Your AR testified that he believes you filed a tax return for 2015 and 2016, but he was not sure whether you filed a tax return in 2014.
- 3) Your AR testified that you only plan to file a tax return for 2017 if you have to, based on your income. He testified that, if it will help you to get health insurance, you will file one, but that you were both always under the assumption that you did not have to file taxes because of your income.
- 4) Your AR testified that you receive a disability pension of approximately \$1,440.00 per month. He testified that you do receive cost of living adjustments, and that he would submit documentation of the amount you are receiving each month in 2017.
- 5) Your AR testified that you do not have Medicare.
- 6) Your AR testified that you were enrolled in the Medicare part that allowed you to receive care from doctors, but that you do not qualify for the part that covers hospitalization.
- 7) Your AR testified that you no longer have any Medicare coverage.
- 8) Your NYSOH account contains the first page of a letter from the Social Security Administration dated March 17, 2014 which states that you requested to stop your medical insurance coverage under Medicare, and that your coverage ended on the last day of February 2014 (Document [REDACTED]).
- 9) Your AR testified that you have severe and recurring health problems that require regular medical attention. Your AR further testified that you were hospitalized [REDACTED] between late January 2017 and May 2017, for approximately [REDACTED] each time.
- 10) Your AR testified that, while you were in the hospital, someone completed an application on your behalf for "long-term care Medicaid," but that it is difficult to find doctors who take this coverage.
- 11) Your AR testified that you have applied for Medicaid through your local Human Resources Administration (HRA), but that you were denied. He also testified that you receive a letter at some point stating that you have some form of Medicaid, but that you will have to pay \$600.00 a month for this coverage next year, and that you cannot afford this.
- 12) Your NYSOH account reflects that you turned [REDACTED] on [REDACTED], and your AR confirmed that this was your age.

- 13) Your AR testified that you are not the parent or caretaker relative of anyone under the age of nineteen.
- 14) Your AR testified that you are looking to be eligible for any coverage that you can afford, as you have many medical needs.
- 15) Your application states that you live in [REDACTED]
- 16) At the end of the hearing, the record was kept open so that you could submit the following: IRS income tax return transcripts for 2014 and 2015, as well as proof of filing or a transcript for 2016; proof of your current income; and the letter you received explaining the type of Medicaid coverage you are eligible for through HRA. The record was kept open for thirty days, but no documentation was submitted, so the record is now closed.

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 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).

### Medicaid

An individual is eligible for enrollment in Medicaid through NYSOH (called MAGI-based Medicaid) when he or she meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard (45 CFR § 155.305(c); NY Social Services Law § 366(1)(b)).

In general, to qualify for MAGI-based Medicaid through NYSOH, you must also be one of the following:

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- An adult aged 19-64 who is not eligible for Medicare Part A or Part B,
- A pregnant woman or infant,
- A child aged 1-18, or
- A parent or caretaker relative

(45 CFR § 155.305(c); NY Social Services Law § 366(1)(b)).

If an individual does not fall into one of these categories, he or she may still be eligible for non-MAGI-based Medicaid coverage through their Local Department of Social Services or the New York City Human Resources Administration (see NY Social Services Law § 366(1)(c)).

NYSOH is required to refer an individual who is not eligible for MAGI-based Medicaid because they are in receipt of Medicare, certified disabled, or over the age of 65 to the Local Department of Social Services or the Human Resources Administration. During the referral process, an individual's Medicaid eligibility, including their enrollment in a Medicaid Managed Care plan or receipt of Premium Payment Assistance, continues until such a time as their eligibility can be redetermined on a non-MAGI Medicaid basis (see *generally* 42 CFR § 435.1200, 42 CFR § 435.930, 14 OHIP/LCM-2 effective as of December 1, 2014, GIS 16 MA/04 effective as of January 1, 2016).

#### Verification of Eligibility for Advance Payments of the Premium Tax Credit

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)).

APTC are generally available to a person who is eligible to enroll in QHP and (1) expects to have a household income between 138% and 400% of the applicable 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 qualified health plan, 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)).

People who use 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).

NYSOH may not determine a tax filer eligible for APTC if APTC was paid on the tax filer's behalf in a previous year, and a tax return was not filed for that previous year (45 CFR §155.305(f)(4)).

For all individuals, whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

## Legal Analysis

The first issue under review is whether NYSOH properly determined that you were not eligible to receive Medicaid, or the Essential Plan at no cost, through NYSOH.

Your NYSOH account reflects that you turned [REDACTED] on [REDACTED]. The Essential Plan is available to individuals who are financially eligible, and who meet the nonfinancial requirements. One of the non-financial requirements is that the individual must be between 19 and 64 years of age. As you are [REDACTED] you are not eligible for the Essential Plan.

You were also determined not eligible for Medicaid through NYSOH. Medicaid through NYSOH (called MAGI-based Medicaid) is available to individuals who are between the ages of 19 and 64, who are not eligible for Medicare Parts A or B; pregnant women or infants; children between the ages of 1 and 18; and parent or caretaker relatives.

According to your testimony and the information in your NYSOH application, you are single with no dependents and, therefore, you are not a parent or a caretaker relative of a dependent child.

Additionally, according to your NYSOH account and your AR's testimony, [REDACTED]. Therefore, since you are over the allowable age limit for MAGI-based Medicaid, and not a parent or caretaker relative, NYSOH properly determined that you are not eligible for Medicaid through NYSOH.

However, individuals who are not eligible for MAGI-based Medicaid because they are receiving Medicare, are over the age of 65, or have become certified disabled, may qualify for Medicaid under non-MAGI standards.

The record indicates that NYSOH referred your case to your local district, and your AR indicated in his testimony that you have filed Medicaid applications

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through your local HRA. Your AR testified that you are currently receiving some kind of “long-term care” Medicaid through HRA, and that you have been informed that you will have to pay \$600.00 per month for this coverage next year. The record was kept open so that you could submit the letter you received about this coverage, but no documentation was received by the Appeals Unit. As such, since you are not eligible for MAGI Medicaid through NYSOH, and since it appears that you have applied for Medicaid through HRA, there is no further action for NYSOH to take regarding your potential eligibility for non-MAGI Medicaid.

The second issue under review is whether NYSOH properly determined that you were eligible to purchase a QHP through NYSOH at full cost, and not eligible for APTC, effective April 1, 2017.

On February 17, 2017, when you updated your application, you indicated that you do not plan to file a federal income tax return for 2017.

People who use 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. As your February 17, 2017 application stated that you do not expect to file a tax return, NYSOH was constrained to find that you were not eligible to receive APTC toward the cost of your health insurance premium.

At the hearing, your AR testified that you would file a tax return if it would help you to receive financial assistance with your health insurance.

However, the February 18, 2017 eligibility determination stated that another reason you may not have been found eligible for APTC could have been that you received APTC for a prior year for which NYSOH cannot determine whether a federal income tax return was filed. Your AR testified that you filed a tax return for 2016, and he believes you filed a tax return for 2015, but he was not sure whether you filed a return for 2014.

NYSOH may not determine a tax filer eligible for APTC if APTC was paid on the tax filer’s behalf in a previous year, and a tax return was not filed for that previous year. If NYSOH is unable to obtain information that a prior year’s tax return has been filed, NYSOH may not determine a tax filer eligible for APTC, if APTC was paid on the tax filer’s behalf in a previous year.

Your NYSOH account reflects that you received APTC in 2014; therefore, if you did not file a tax return for the 2014 tax year, this could prevent you from being found eligible for any APTC going forward. For this reason, the record was left open after the hearing so that your AR could submit IRS tax transcripts for 2014 and 2015, and proof of filing or a transcript for your 2016 tax return. However, after thirty days, no documentation was submitted.

Since your February 17, 2017 application indicated that you do not plan to file a tax return for 2017, and since your AR could not provide documentation to show that tax returns were filed for previous years in which you received APTC, NYSOH's determination that you are not eligible to receive APTC or cost sharing reductions is correct.

For these reasons, the February 18, 2017 eligibility determination is AFFIRMED.

## **Decision**

The February 18, 2017 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** August 2, 2017

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

You are not eligible for Medicaid or the Essential Plan through NYSOH because you are over 65 years old.

You are not eligible for APTC or cost-sharing reductions because your February 17, 2017 application indicated that you do not plan to file a tax return for 2017, and because you did not submit documentation to show that you filed tax returns in prior years when you received APTC.

## **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)).

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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:  
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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The February 18, 2017 eligibility determination notice is AFFIRMED.

You are not eligible for Medicaid or the Essential Plan through NYSOH because you are over 65 years old.

You are not eligible for APTC or cost-sharing reductions because your February 17, 2017 application indicated that you do not plan to file a tax return for 2017, and because you did not submit documentation to show that you filed tax returns in prior years when you received APTC.

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## **Legal Authority**

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

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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 مجاناً.

### **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 नि:शुल्क 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 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 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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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