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

Notice of Decision

Decision Date: June 7, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000016136

[redacted]

Dear [redacted],

On May 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 9, 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 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
Albany, NY 12211

Decision

Decision Date: June 7, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000016136

[redacted]

Issue

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

> Did NY State of Health properly determine that you were eligible for the Essential Plan and ineligible for Medicaid, effective March 1, 2017?

Procedural History

On December 29, 2016, you updated your application for financial assistance.

On December 30, 2016, NY State of Health (NYSOH) issued a notice stating that more information was needed to make a determination. The notice explained that 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 13, 2017.

Also on December 30, 2016, you uploaded income documentation to your NYSOH account.

On January 6, 2017, you submitted an application for financial assistance.

On January 7, 2017, NYSOH issued a notice stating that 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 13, 2017.

On January 11, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient as four paystubs dated within 30 days of January 6, 2017 were required as well as paystubs from the [redacted]

On January 12, 2017, NYSOH issued a notice advising you that the income documentation you submitted was insufficient to resolve the inconsistency in your account and that additional income documentation was required by January 28, 2017.

On January 29, 2017, you uploaded income documentation to your NYSOH account.

On February 8, 2017, recalculated your income in your application and submitted a new application on your behalf.

On February 9, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for the Essential Plan for a limited time, effective March 1, 2017. That notice also stated that you were not eligible for Medicaid because your income was over the allowable income limit for that program.

On February 23, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you were not found eligible for Medicaid.

On May 31, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end 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 single. You will claim no dependents on that tax return.

2) You are seeking insurance for yourself.

3) On December 30, 2016, you uploaded four paystubs from [redacted]. The first is dated December 2, 2016 for a gross pay amount of $339.39; the second is dated December 9, 2016 for a gross pay amount of $257.46; the third is dated December 16, 2016 for a gross pay amount of $502.40; and the fourth is dated December 23, 2016 for a gross pay amount of $274.37.

4) The applications that were submitted on December 29, 2016 and January 6, 2017 listed annual household income of $12,730.10, consisting of

$12,430.10 you expected to earn from your employment at [redacted] and $300.00 you expected to receive from the [redacted]. You testified that this amount was correct at that time, however, your annual expected income for 2017 has since changed.

5) On January 29, 2017, you uploaded your 2016 W-2 from [redacted], which shows total earnings of $10,316.61.

6) On February 8, 2017, NYSOH updated the income in your application to be $18,001.06.

7) You testified that your income in 2017 will consist of approximately $14,000.00 from your employment at [redacted]s and $4,729.00 you took in an early 401K distribution which you received on March 27, 2017. You testified that you exhausted your unemployment benefits in 2016, and you have received no unemployment payments in 2017. You testified that in 2016 you received $775.00 from the [redacted]. You explained that this is not guaranteed employment, and you would only be called up if there is an election and if your services are needed.

8) On February 23, 2017, you uploaded documentation that your monthly income for January 2017 was $1,129.15. This documentation consisted of four paystubs; the first is dated January 6, 2017 for a gross pay amount of $371.68; the second is dated January 13, 2017 for a gross pay amount of $274.78; the third is dated January 20, 2017 for a gross pay amount of $319.82; the fourth is dated January 27, 2017 for a gross pay amount of $162.87.

9) Also on February 23, 2017, you uploaded documentation that your monthly income for February 2017 was $668.68. This documentation consisted of four paystubs; the first is dated February 3, 2017 for a gross pay amount of $142.91; the second is dated February 10, 2017 for a gross pay amount of $171.15; the third is dated February 17, 2017 for a gross pay amount of $141.74; the fourth is dated February 24, 2017 for a gross pay amount of $212.88.

10) You testified that your only income in January 2017 and February 2017 was from your employment with [redacted].

11) You testified that you are not sure if you will be able to claim any deductions on your 2017 tax return. You explained that you are paying your child's student loans, but you are not sure if you are entitled to a deduction for these payments.

12) NYSOH never determined that any of the income documentation you submitted was sufficient to determine your eligibility.

13) Your application states that you live in Queens County.

14) You testified that you have bills including your maintenance of $800.00 to $900.00 per month, a 2016 Federal tax bill of $3,335.00, a 2016 NYS tax bill of $3,111.00, and loans of $50.00 per week that you would like considered when determining your eligibility for financial assistance with health insurance.

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).

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 $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).

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)).

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 2017 FPL, which is $12,060.00 for a two-person household (82 Fed. Reg. 8831).

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).

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)).

"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.

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were eligible for the Essential Plan and not eligible for Medicaid, effective March 1, 2017.

You are in a one-person household. You expect to file your 2017 income taxes as single and will claim no dependents on that tax return.

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. On the date of your application, the relevant FPL was $11,880.00 for a one-person household.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was $12,060.00 for a one-person household. Additionally, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

On February 8, 2017, NYSOH recalculated your household income to be $18,001.06. That day, NYSOH updated the income in your application to be $18,001.06 and submitted a new application on your behalf. The February 9, 2017 eligibility determination notice relied on this information.

During the hearing, you asked that your current expenses, which include your maintenance of $800.00 to $900.00 per month, a 2016 Federal tax bill of $3,335.00, a 2016 NYS tax bill of $3,111.00, loans of $50.00 per week, and other living expenses, be considered when calculating your annual household income.

Since the Internal Revenue Service rules do not allow expenses such as rent, utilities, cable and phone to be deducted from the calculation of your adjusted gross income, they cannot be deducted when the NYSOH computes your modified adjusted gross income.

However, it is unclear how NYSOH determined that your annual expected income for 2017 is $18,001.06. NYSOH never found the income documentation you submitted sufficient to determine your eligibility for financial assistance with health insurance. Although the four paystubs you submitted on December 30, 2016 could reasonably be taken to support an annual expected income from [redacted] of $17,857.06 ($1,373.62 for four weeks, for a weekly average of $343.31, multiplied by 52 weeks), this appears inconsistent with the W-2 you submitted.

As NYSOH mistakenly calculated your annual expected income, and the February 9, 2017 eligibility determination notice relied on this miscalculation, the February 9, 2017 eligibility determination is RESCINDED.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

On February 23, 2017, you uploaded documentation that your monthly income for February 2017 was $668.68. This documentation consisted of four paystubs; the first is dated February 3, 2017 for a gross pay amount of $142.91; the second is dated February 10, 2017 for a gross pay amount of $171.15; the third is dated February 17, 2017 for a gross pay amount of $141.74; the fourth is dated February 24, 2017 for a gross pay amount of $212.88.

Since the record now contains a more accurate representation of what your monthly household income is, your case is RETURNED to NYSOH to redetermine your eligibility as of February 9, 2017 based on a one-person household residing in Queens County with a monthly income for February 2017 of $668.68.

Decision

The February 9, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility as of February 9, 2017 based on a one-person household residing in Queens County with a monthly income for February 2017 of $668.68.

Effective Date of this Decision: June 7, 2017

How this Decision Affects Your Eligibility

This is not a final determination of your eligibility.

Your case is being sent back to NYSOH to redetermine your eligibility based on information you provided during your hearing.

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

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).

- By fax: 1-855-900-5557

Summary

The February 9, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility as of February 9, 2017 based on a one-person household residing in Queens County with a monthly income for February 2017 of $668.68.

This is not a final determination of your eligibility.

Your case is being sent back to NYSOH to redetermine your eligibility based on information you provided during your hearing.

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.

□□□□□ (Bengali)

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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 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)

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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).