



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

Notice of Decision

Decision Date: July 21, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016822

[REDACTED]

Dear [REDACTED],

On Jun 30, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 28, 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 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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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 and your spouse were eligible to enroll in the Essential Plan effective May 1, 2017?

Did NY State of Health properly determine that you were not eligible for Medicaid, as of March 27, 2017?

Procedural History

On January 6, 2017, NYSOH issued a notice of renewal stating that it was time for you and your spouse to renew your application for health insurance through NYSOH.

On February 9, 2017 NYSOH received an updated application for financial assistance on behalf of you and your spouse. In addition, documents were uploaded to your NYSOH account.

On February 10, 2017, NYSOH issued a notice stating that your February 9, 2017 application had been reviewed, but that more information was needed to confirm the information in your application. The notice directed you to submit documentation of income for you and your spouse by February 24, 2017.

Also on February 10, 2017, NYSOH issued a disenrollment notice stating that you and your spouse would be disenrolled from your Medicaid Managed Care plan, effective February 28, 2017.

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On February 22, 2017, NYSOH issued a notice stating that the documentation you submitted had been reviewed, but that it did not confirm the information in your application. The notice directed you to submit documentation of income for you and your spouse by March 11, 2017.

On February 27, 2017, you updated your NYSOH account.

On February 28, 2017, NYSOH issued a notice stating that your February 27, 2017 had been reviewed, but that more information was needed to confirm the information in your application. The notice directed you to submit documentation of income for you and your spouse by March 11, 2017.

On March 1, 2017, you uploaded a document to your NYSOH account.

On March 10, 2017, NYSOH issued a notice stating that the documentation you submitted had been reviewed, but that it did not confirm the information in your application. The notice directed you to submit documentation of income for you and your spouse by March 26, 2017.

On March 13, 2017, you contacted NYSOH's Account Review Unit and requested an appeal, insofar as a determination of eligibility for you and your spouse had not been issued.

On March 18, 2017, you uploaded additional documentation to your NYSOH account.

On March 27, 2017, NYSOH reviewed your documentation and reran your application.

On March 28, 2017, NYSOH issued an eligibility determination stating that you and your spouse were eligible to enroll in the Essential Plan with a \$20.00 monthly premium each, effective May 1, 2017.

On April 1, 2017, NYSOH issued a notice of enrollment confirmation, confirming that you and your spouse were enrolled in an Essential Plan beginning May 1, 2017.

On June 30, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, the issue under appeal was amended to reflect that you were now appealing to be eligible for Medicaid instead of the Essential Plan. The record was developed during the hearing and held open through July 17, 2017 to give you time to submit documentation of income received in May 2017 by you and your spouse, documentation of your spouse's Unemployment Insurance Benefits, and the two most recent paystubs for you and for your spouse.

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As of July 18, 2017, the Appeals Unit did not receive any further documentation. The record is now closed.

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 jointly. You will claim no dependents on that tax return.
- 2) You are seeking insurance for yourself and your spouse.
- 3) On March 1, 2017, you uploaded a letter from [REDACTED] dated February 28, 2017 stating that you are an on call hourly [REDACTED] with their [REDACTED], and that you earn \$16.87 per hour, when you work. The letter further stated that you had not worked any days yet in 2017.
- 4) On March 18, 2017, you uploaded the following documentation to your NYSOH account:
 - a. A biweekly paystub for you from [REDACTED] dated February 23, 2017 showing gross earnings of \$574.00 (Document [REDACTED]);
 - b. A biweekly paystub for you dated March 9, 2017 showing gross earnings of \$427.00 (Document [REDACTED]);
 - c. A biweekly paystub for your spouse dated March 3, 2017 showing gross taxable earnings of \$819.28 (Document [REDACTED]);
 - d. A biweekly paystub for your spouse dated March 17, 2017 showing gross taxable earnings of \$383.91 (Document [REDACTED]).
- 5) You testified that you believe NYSOH's calculation of your household income is incorrect.
- 6) You testified that your earnings are not consistent, as you do not get paid if you have to take any time off, and because you do not work every single day.
- 7) You testified that you earn \$14.00 an hour and that you are "on the clock" for 13.5 hours per week. You testified that you rarely work more hours than that, and sometimes work less.
- 8) You testified that you expect to earn, at most, \$10,000.00 in 2017.

- 9) The paystub submitted on March 18, 2017, which was dated March 9, 2017, shows that your year-to-date earnings, as of February 26, 2017, were \$2,135.00.
- 10) You testified that, as of June 30, 2017, you have worked a total of four hours this year at your second job with [REDACTED].
- 11) You testified that your spouse works hourly and earns \$11.50 an hour.
- 12) You testified that your spouse generally works 28-29 hours per week, but that [REDACTED] hours vary, and [REDACTED] does not get paid for holidays or vacation.
- 13) You testified that your spouse works for a [REDACTED], so [REDACTED] does not work in July or August. You testified that [REDACTED] last worked on June 23, 2017.
- 14) Your spouse's year-to-date taxable wages, as of March 3, 2017, were \$3,816.23.
- 15) You testified that your spouse collects Unemployment Insurance Benefits during the summer, but that [REDACTED] had not yet received [REDACTED] first benefit payment as of the hearing.
- 16) You testified that your spouse's Unemployment Insurance Benefit rate is approximately \$170.00 per week.
- 17) Your application states that you will not be taking any deductions on your 2017 tax return.
- 18) Your application states that you live in [REDACTED].
- 19) After the hearing, the record was left open and you were directed by the Hearing Officer to submit all paystubs for you and your spouse with a May 2017 pay date; proof of your spouse's Unemployment Insurance Benefit rate for 2017, or [REDACTED] first payment; and the most recent two paystubs for you and your spouse.
- 20) No further documentation was received by the NYSOH Appeals Unit after the hearing.

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 \$16,020.00 for a two-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).

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 \$16,240.00 for a two-person household (82 Fed. Reg. 8831).

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Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your spouse were eligible for the Essential Plan, effective May 1, 2017.

Based on income documentation that you submitted for yourself and your spouse, NYSOH calculated your gross annual household income to be \$30,458.75, and the March 28, 2017 eligibility determination was based on that amount.

You are in a two-person household. You expect to file your 2017 income taxes as married filing jointly 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 MAGI that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$16,020.00 for a two-person household. Since an annual household income of \$30,458.75 is 190.13% of the 2016 FPL, NYSOH properly found you to be eligible for the Essential Plan, based on their income calculation.

You testified that you did not believe that NYSOH calculated your income correctly, as you expect to earn, at most, \$10,000.00 in 2017, and your spouse does not work in July and August, when [REDACTED] instead receives Unemployment Insurance Benefits while [REDACTED] is out. The record was left open after the hearing so that you could provide documentation in support of your testimony, but none was submitted.

The paystubs you submitted from your employment, which NYSOH used as the basis of the March 28, 2017 eligibility determination, averaged to biweekly earnings of \$500.50 for you, which is equal to an annual income of \$13,013.00. This is the annual income figure NYSOH used for its March 28, 2017 eligibility determination.

The paystubs you submitted for your spouse, which NYSOH used as the basis of the March 28, 2017 eligibility determination, averaged to biweekly earnings of \$601.60, which is equal to an annual income of \$15,641.47. NYSOH calculated your spouse's earnings to be \$17,445.75. This appears to be due to NYSOH's

use of the gross pay figure from your spouse's paystubs, instead of the "federal taxable wages" figure.

However, even if the gross income is changed to \$28,654.47 to reflect a correction to NYSOH's error, this is still 178.87% of the 2016 FPL, and therefore you and your spouse would still be eligible for the Essential Plan with a \$20.00 monthly premium.

Though you testified that your spouse does not work for two months out of the year, you submitted no documentation to support this testimony, and therefore there is no basis in the record to recalculate your household's income accordingly.

The second issue under review is whether NYSOH properly determined that you and your spouse were not eligible for Medicaid as of March 27, 2017.

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 \$16,240.00 for a two-person household. Since \$28,654.47 is 176.44% of the 2017 FPL, you and your spouse were properly found to be ineligible for Medicaid on an expected annual income basis, using the income documentation you provided.

Since the March 28, 2017 eligibility determination properly stated that, based on the information you provided, you and your spouse were eligible for the Essential Plan, it was correct and is AFFIRMED.

Decision

The March 28, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: July 21, 2017

How this Decision Affects Your Eligibility

You and your spouse remain eligible for the Essential Plan.

You and your spouse are not eligible for Medicaid, based on the income information available in the record.

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

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).

Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The March 28, 2017 eligibility determination notice is AFFIRMED.

You and your spouse remain eligible for the Essential Plan.

You and your spouse are not eligible for Medicaid, based on the income information available in the record.

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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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. y&b&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.

שׂוֹדֵשׁ (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.

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