



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

Notice of Decision

Decision Date: September 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017775

[REDACTED]

Dear [REDACTED],

On September 8, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 6, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: September 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017775



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 receive up to \$721.00 per month in advance payments of the premium tax credit (APTC) for a limited time, effective May 1, 2017?

Did NYSOH properly determine that you and your spouse were eligible for cost-sharing reductions for a limited time, effective May 1, 2017?

Did NYSOH properly determine that you and your spouse were not eligible for the Essential Plan?

Did NYSOH properly determine that you and your spouse were not eligible for Medicaid?

Procedural History

On April 5, 2017, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you and your spouse were eligible to receive up to \$721.00 in APTC, and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, for a limited time, effective May 1, 2017.

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Also on April 5, 2017, you spoke to NYSOH's Account Review Unit and appealed, insofar as you and your spouse were not eligible for the Essential Plan. You also requested Aid to Continue, pending the outcome of your appeal.

On April 6, 2017, NYSOH issued a notice of eligibility determination, based on the April 5, 2017 application, stating that you and your spouse were eligible to receive up to \$721.00 in APTC, and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, for a limited time, effective May 1, 2017. That notice also stated that you were not eligible for the Essential Plan or Medicaid because your income was over the allowable income limits for those programs. Finally, the notice directed you to submit documentation of your household income by July 4, 2017, as well as proof of your citizenship status and Social Security number.

On April 11, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible for the Essential Plan with a \$20.00 monthly premium each, for a limited time, effective May 1, 2017. This was because NYSOH granted you Aid to Continue, pending the outcome of your appeal.

Also on April 11, 2017, NYSOH issued a notice of enrollment confirmation, confirming that you and your spouse were enrolled in an Essential Plan, beginning May 1, 2017. This was also because NYSOH granted your request for Aid to Continue, pending the outcome of your appeal.

On September 8, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open through September 25, 2017 to allow you to submit supporting documents.

On September 18, 2017, you uploaded documentation to your NYSOH account. 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) You testified that you are pregnant and expecting one child, with a due date of [REDACTED]. You testified that you did not know that you were pregnant the last time you updated your application, so you have not yet provided this information to NYSOH.

- 4) The application that was submitted on April 5, 2017 listed annual household income of \$33,280.00, consisting of income you earn from employment. The application indicated that your spouse had no income. You testified that this amount was correct at that time.
- 5) You testified that you received a \$1.00 an hour raise at the beginning of September. You testified that you now earn \$17.00 an hour, and work forty hours per week. You testified that you are paid biweekly.
- 6) You testified that you spouse is still unemployed and has no income.
- 7) Your application states that you will not be taking any deductions on your 2017 tax return, and you confirmed this in your testimony.
- 8) Your application states that you live in Nassau County.
- 9) After the hearing, you uploaded two paystubs to NYSOH for the following dates and gross pay:
 - a. August 24, 2017: \$1,360.00;
 - b. September 7, 2017: \$1,360.00, with year-to-date earnings of \$30,884.00, through September 1, 2017; (Document [REDACTED]).

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

Applicable Law and Regulations

Advance Payments of Premium Tax Credit

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

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

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minus

2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2017 is set by federal law at 2.04% to 9.69% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc.2016-24).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2016 FPL, which is \$16,020.00 for a two-person household (81 Federal Register 4036).

For annual household income in the range of at least 200% but less than 250% of the 2016 FPL, the expected contribution is between 6.43% and 8.21% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2016-24).

People who use the 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).

Cost-Sharing Reductions

Cost-sharing reductions are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

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 FPL or, in the case of an individual who is a lawfully present non-citizen who is ineligible for

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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).

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 \$16,240.00 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).

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Household Composition

For purposes of APTC and cost-sharing reductions (CSR), the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

For purposes of Medicaid eligibility, however, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman, but also the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

FPL for Pregnant Women

Medicaid is currently available to pregnant women who have a modified adjusted gross income at or below 223% of the FPL for the applicable family size (see 42 CFR § 435.116(c); NY Department of Health Administrative Directive 13ADM-03).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your spouse were eligible for an APTC of up to \$721.00 per month.

The application that was submitted on April 5, 2017 listed an annual household income of \$33,280.00, and the eligibility determination relied upon that information.

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.

You reside in Nassau County, where the second lowest cost silver plan available for a couple through NYSOH costs \$906.77 per month.

An annual income of \$33,280.00 is 207.74% of the 2016 FPL for a two-person household. At 207.74% of the FPL, the expected contribution to the cost of the health insurance premium is 6.71% of income, or \$186.09 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through NYSOH for a couple in your county (\$906.77 per month) minus your expected contribution (\$186.09 per month), which equals \$720.68 per month. Therefore, rounding to the nearest

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dollar, NYSOH correctly determined you and your spouse to be eligible for up to \$721.00 per month in APTC, based on the information in your April 5, 2017 application.

The second issue under review is whether you and your spouse were properly found eligible for cost-sharing reductions. Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$33,280.00 is 207.74% of the applicable FPL, NYSOH correctly found you and your spouse to be eligible for cost sharing reductions.

The third issue under review is whether NYSOH properly determined that you and your spouse were not eligible for the Essential Plan, as of your April 5, 2017 application.

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 \$16,020.00 for a two-person household. Since an annual household income of \$33,280.00 is 207.74% of the 2016 FPL, NYSOH properly found you and your spouse to be ineligible for the Essential Plan, as of April 5, 2017.

The fourth issue under review is whether NYSOH properly determined that you and your spouse were ineligible for Medicaid.

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 \$33,280.00 is 204.93% of the 2017 FPL, NYSOH properly found you and your spouse to be ineligible for Medicaid on an expected annual income basis, using the information provided in your April 5, 2017 application.

Since the April 6, 2017 eligibility determination properly stated that, based on the information you provided, you and your spouse were eligible for up to \$721.00 per month in APTC, eligible for cost-sharing reductions, ineligible for the Essential Plan and ineligible for Medicaid, it was correct and is AFFIRMED.

However, at the hearing you provided testimony that indicates that your financial circumstances have changed. You testified that you are pregnant and expecting one child on [REDACTED]. Additionally, you testified that you received a \$1.00 an hour raise on or about September 1, 2017. You testified that you work forty hours per week, and that you now earn \$17.00 an hour.

After the hearing, you submitted income documentation to NYSOH consisting of two biweekly paystubs. The most recent paystub was dated September 7, 2017, and indicated that your gross year-to-date earnings were \$30,884.00, as of September 1, 2017 (Document [REDACTED]).

According to the testimony you provided, your weekly gross earnings are \$680.00 (\$17.00 an hour times 40 hours per week). As of your September 7, 2017 paystub, there were 16 weeks remaining in 2017. Therefore, your earnings between your September 7, 2017 paycheck and December 31, 2017 will be approximately \$10,880.00 (\$680.00 times 16 weeks). When this amount is added to your year-to-date earnings, the result is an annual expected income of \$41,764.00.

Therefore, your case is RETURNED to NYSOH to redetermine you and your spouse's eligibility for financial assistance, based on a household of two, expecting one child [REDACTED], with an annual expected income of \$41,764.00.

NYSOH is directed to issue a new eligibility determination notice in writing.

Decision

The April 6, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine you and your spouse's, eligibility for financial assistance, based on a household of two, expecting one child [REDACTED], with an annual expected income of \$41,764.00.

NYSOH is directed to issue an eligibility determination in writing.

Effective Date of this Decision: September 28, 2017

How this Decision Affects Your Eligibility

You and your spouse were eligible for up to \$721.00 in APTC, as of your April 5, 2017 application.

You and your spouse were eligible for cost-sharing reductions, as of your April 5, 2017 application.

You and your spouse were ineligible for Medicaid and the Essential Plan, as of your April 5, 2017 application.

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Based on the updated income information and information regarding your pregnancy that you provided during the hearing, your case is being sent back to NYSOH to redetermine your, and your spouse's, eligibility for financial assistance, based on a household of two people, expecting one child [REDACTED], with an annual expected household income of \$41,764.00.

NYSOH will notify you of your new eligibility in writing.

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.

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If You Have Questions about this Decision (Customer Service Resources):

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- By fax: 1-855-900-5557

Summary

The April 6, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your, and your spouse's, eligibility for financial assistance, based on a household of two, expecting one child [REDACTED] with an annual expected income of \$41,764.00.

NYSOH is directed to issue an eligibility determination in writing.

You and your spouse were eligible for up to \$721.00 in APTC, as of your April 5, 2017 application.

You and your spouse were eligible for cost-sharing reductions, as of your April 5, 2017 application.

You and your spouse were ineligible for Medicaid and the Essential Plan, as of your April 5, 2017 application.

Based on the updated income information and information regarding your pregnancy that you provided during the hearing, your case is being sent back to NYSOH to redetermine your, and your spouse's, eligibility for financial assistance, based on a household of two people, expecting one child [REDACTED], with an annual expected household income of \$41,764.00.

NYSOH will notify you of your new eligibility in writing.

Legal Authority

We are sending you this notice 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。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

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

한국어 (Korean)

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

Русский (Russian)

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

العربية (Arabic)

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

বাংলা (Bengali)

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

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Français (French)

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

हिंदी (Hindi)

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

日本語 (Japanese)

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

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&btumi ama wo obi a okyerε kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

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

Tiếng Việt (Vietnamese)

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

אידיש (Yiddish)

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

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