



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

Notice of Decision

Decision Date: September 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018115

[REDACTED]

Dear [REDACTED],

On July 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 13, 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).

This page intentionally left blank.



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

Decision

Decision Date: September 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018115



Issues

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

Was the April 13, 2017 eligibility determination based on an accurate calculation of your annual income?

Procedural History

On February 14, 2017, you submitted an updated application for financial assistance.

On February 15, 2017, NYSOH issued a notice of eligibility determination stating you were eligible to enroll in the Essential Plan, for a limited time, with a \$20.00 monthly premium, effective March 1, 2017. The notice directed you to submit proof of your income to confirm the information in your application by May 15, 2017 or you might lose your insurance or receive less help paying for your coverage.

On February 16, 2017, NYSOH issued an enrollment notice confirming you were enrolled in an Essential Plan with vision and dental, effective March 1, 2017.

On April 13, 2017, NYSOH issued an eligibility determination notice, based on an April 12, 2017 systematic eligibility redetermination, stating you were eligible to receive up to \$81.00 per month in advance payments of the premium tax credit (APTC), effective May 1, 2017. The notice stated that you were not eligible for cost-sharing reductions, the Essential Plan, or Medicaid, because your household income was over the allowable income limits for those programs.

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).

Also on April 13, 2017, NYSOH issued a disenrollment notice stating your enrollment in an Essential Plan would end on April 30, 2017, because you were no longer eligible to enroll in that plan.

On April 18, 2017, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination insofar as you were not eligible for an increased amount of financial assistance with health insurance.

On April 21, 2017, NYSOH issued an eligibility determination notice, based on your grant of Aid to Continue, stating you were eligible for the Essential Plan, effective May 1, 2017, until a decision was made on your appeal. You subsequently reenrolled in an Essential Plan, effective May 1, 2017.

On July 31, 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 to allow you to submit supporting documents.

On July 31, 2017, a document was uploaded to your NYSOH account and incorporated into the record as Appellant's Exhibit #1. The record closed thereafter.

Findings of Fact

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

- 1) You updated your application on February 14, 2017. That application listed your annual income as \$22,027.00 consisting of \$396.00 you earned weekly at your full-time job and \$1,435.00 you earned annually at your part-time job.
- 2) According to your account, NYSOH was unable to verify the income information in your application and you were determined conditionally eligible for the Essential Plan pending receipt of income documentation to confirm your income.
- 3) On April 6, 2017, the following documentation was uploaded to your NYSOH account:
 - a. A March 31, 2017 letter from your part-time employer indicating you have been employed since September 14, 2016 and that you work on a per-diem basis "only...when needed" at a pay rate of \$14.40 per hour.
 - b. Weekly pay stub from your part-time job with a pay date of March 3, 2017 in the gross amount of \$61.20.

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).

- c. Weekly paystub from your part-time employer with a pay date of March 10, 2017 in the gross amount of \$140.40.
 - d. Weekly paystub from your part-time employer with a pay date of March 17, 2017 in the gross amount of \$208.80.
 - e. Weekly paystub from your part-time employer with a pay date of March 24, 2017 in the gross amount of \$208.80 and a year-to-date amount of \$1,909.30
 - f. Weekly paystub from your full-time employer with a pay date of March 10, 2017 in the gross amount of \$396.33.
 - g. Weekly paystub from your full-time employer with a pay date of March 17, 2017 in the gross amount of \$387.53.
 - h. Weekly paystub from your full-time employer with a pay date of March 24, 2017 in the gross amount of \$293.15.
 - i. Weekly paystub from your full-time employer with a pay date of March 31, 2017 in the gross amount of \$299.53.
- 4) According to your account, NYSOH verified your income documentation on April 12, 2017 and recalculated your income by increasing the annual income from your part-time job to \$8,049.60 based on the weekly average of the paystubs submitted. NYSOH also calculated your annual income from your full-time job as \$17,895.02, based on the average weekly income amounts on the paystubs submitted.
- 5) According to your account, because the name of your full-time employer on your paystubs was different than the name of the full-time employer listed in your application, NYSOH recalculated your annual income by combining the income amount calculated from the paystubs submitted with the income amount attested to in your application for your full-time job. This recalculation indicated you had income from three different sources and increased your annual income to \$46,536.61.
- 6) The April 13, 2017 eligibility determination was based on the recalculated annual income amount of \$46,536.61.
- 7) You testified you only have two income sources, your part-time job and your full-time job.

- 8) You testified that the paystubs you submitted from [REDACTED] were from your full-time job and that it was the same employer that was listed in your application as "[REDACTED]."
- 9) You testified that you agree with NYSOH's calculation of your annual income from your full-time job of \$17,895.02.
- 10) You testified you do not agree with NYSOH's recalculation of your annual income from your part-time job. You testified that you do not work regularly at this job and that some months you only work a couple of days.
- 11) On July 27, 2017, you uploaded a letter from your employer dated July 11, 2017 indicating that you worked 14 days in March 2017, five days in June 2017, and two days, so far, in July 2017 ([REDACTED]).
- 12) Also on July 27, 2017, you uploaded a document showing all the dates of the events you worked at your part-time job since February 12, 2017, the amounts earned from each event, and the gross amount earned to date of \$4,668.30 ([REDACTED]).
- 13) You testified that you began working at your part-time job in September 2016 and the income amount you included from that job in your February 14, 2017 application was from your 2016 tax return, but it only accounted for a partial year of work. You acknowledged the attested income amount for that job was inaccurate.
- 14) On July 31, 2017, you uploaded the other side of the document that you previously uploaded on July 27, 2017. This document showed the events worked since September 21, 2016 and the amount you earned from each event ([REDACTED]).
- 15) According to your account, the last application you submitted was on February 14, 2017. That application indicated you would file your 2017 tax return with a tax filing status of single and you would claim no dependents on that tax return. You testified that information was accurate.
- 16) Your application states that you will not be taking any deductions on your 2017 tax return.
- 17) Your application states you live in [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

Advance payments of the 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

minus

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) 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 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

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)).

Legal Analysis

Was the April 13, 2017 eligibility determination based on an accurate calculation of your annual income?

You updated your application on February 14, 2017. That application listed your annual income as \$22,027.00 consisting of \$396.00 you earned weekly at your full-time job and \$1,435.00 you earned annually at your part-time job. According to your account, NYSOH was unable to verify the income information in your application and you were determined conditionally eligible for the Essential Plan pending receipt of documentation to confirm your income.

On April 6, 2017, you uploaded four weekly paystubs from your part-time job indicating that you worked every week in March 2017. NYSOH recalculated your annual income from your part-time job based on the average weekly income from the paystubs submitted and increased your annual income from that job to \$8,049.60. You testified that you do not agree with NYSOH's recalculation of your annual income from your part-time job, because you do not work regularly at this job and that some months you only work a couple of days. You uploaded a letter from your part-time employer indicating that you only work when needed and that you only worked five days in June 2017 as opposed to 14 days in March 2017. This corroborated your testimony that the March 2017 paystubs submitted were not representative of your average income from your part-time job based. You also uploaded documents showing the dates of each event you worked at your part-time job since you began in September 2016 and the amount you earned from each event. Based on this evidence it is concluded NYSOH's recalculation of your annual income from your part-time job was not accurate.

Additionally, your account confirms that NYSOH recalculated your annual income from your full-time job as \$17,895.02, based on the average of the gross income

in the weekly paystubs submitted. You testified you agreed with this calculation and there is nothing in the record to indicate that this calculation was inaccurate.

However, your account confirms that NYSOH erroneously added the amount of income earned from your full-time job, as calculated from the paystubs you submitted, to the income amount you listed for the same job in your February 14, 2017 application. It appears that because the name of your full-time employer on your paystubs was different than the name of the full-time employer listed in your application, NYSOH treated them as separate employers and combined the income amounts, thereby inaccurately inflating your income. You credibly testified that you only have two income sources, your part-time job and your one full-time job. Thus, it is concluded that NYSOH erred in calculating your annual income based on more than two income sources.

Therefore, the record confirms that NYSOH miscalculated your annual income and based the subject April 13, 2017 eligibility determination on an inaccurate annual income amount, thus, that determination is not supported by the record and must be RESCINDED.

Since the record now contains more accurate information regarding your income your case is RETURNED to NYSOH to recalculate your income based on a household of one with income from one full-time job in the annual amount of \$17,895.02 and one part-time job in an amount to be calculated based on the statements uploaded on July 27, 2017 ([REDACTED]) and July 31, 2017 ([REDACTED]). NYSOH is directed to calculate the average gross amount of monthly income you earned from your part-time job from October 2016 to June 2017 based on the information in the aforementioned statements, to more accurately calculate your annual income from this job. NYSOH is directed to redetermine your eligibility, as of April 13, 2017, based on this recalculated annual income amount and notify you accordingly.

Decision

The April 13, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to recalculate your income based on a household of one with income from one full-time job in the annual amount of \$17,895.02 and one part-time job in an amount to be calculated based on the statements uploaded on July 27, 2017 ([REDACTED]) and July 31, 2017 ([REDACTED]). NYSOH is directed to calculate the average gross amount of monthly income you earned from your part-time job from October 2016 to June 2017 based on the information in the aforementioned statements to more accurately calculate your annual income from this job. NYSOH is directed to redetermine your eligibility, as of April 13, 2017, based on this recalculated annual income amount and notify you accordingly.

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).

Effective Date of this Decision: September 13, 2017

How this Decision Affects Your Eligibility

NYSOH erroneously based your eligibility determination on a miscalculation of your annual income.

Your case is being sent back to NYSOH to recalculate your income, in accordance with this decision, and redetermine your eligibility.

This is not a final determination of your eligibility. You will get an updated eligibility determination notice from NYSOH once your eligibility has been redetermined.

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 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).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

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

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The April 13, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to recalculate your income based on a household of one with income from one full-time job in the annual amount of \$17,895.02 and one part-time job in an amount to be calculated based on the statements uploaded on July 27, 2017 ([REDACTED]) and July 31, 2017 ([REDACTED]). NYSOH is directed to calculate the average gross amount of monthly income you earned from your part-time job from October 2016 to June 2017 based on the information in the aforementioned statements to more accurately calculate your annual income from this job. NYSOH is directed to redetermine your eligibility, as of April 13, 2017, based on this recalculated annual income amount and notify you accordingly.

NYSOH erroneously based your eligibility determination on a miscalculation of your annual income.

This is not a final determination of your eligibility. You will get an updated eligibility determination notice from NYSOH once your eligibility has been redetermined.

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)

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).

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.

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).

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).