

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

Notice of Decision

Decision Date: September 15, 2017

NY State of Health Account ID: Appeal Identification Number: AP000000018902

Dear

On August 22, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 4, 2017 eligibility determination notice.

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.

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

Decision

Decision Date: September 15, 2017

NY State of Health Account ID: Appeal Identification Number: AP000000018902

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 and your children were eligible for a full price qualified health plan because you did not submit sufficient documentation of your income?

Procedural History

On November 10, 2016, NY State of Health (NYSOH) received your updated application for financial assistance with health insurance.

On November 11, 2016, NYSOH issued a notice stating that the income information you entered into your application did not match what NYSOH received from state and federal data sources and more information was needed to confirm the information in your account. This notice directed you to submit household income documentation for you and your children by November 25, 2016.

On November 23, 2016, you faxed a seven-page document to NYSOH.

On December 5, 2016, NYSOH received your application for health insurance.

On December 6, 2016, NYSOH issued a notice stating that the income you entered into your application did not match what NYSOH received from state and federal data sources and more information was needed to confirm the

information in your account. This notice directed you to submit household income documentation for you and your children by December 10, 2016.

Also on December 6, 2016, you faxed a seven-page document to NYSOH.

On December 12, 2016, NYSOH uploaded your fax to your NYSOH account.

On December 30, 2016, NYSOH invalidated your income documentation that was faxed on December 6, 2017.

On December 31, 2016, NYSOH issued a notice stating that the income documentation you provided did not confirm the information in your account. This notice further directed you to submit additional household income documentation by December 25, 2016.

No additional income documentation was received by December 25, 2016.

On January 5, 2017, NYSOH issued an eligibility determination stating that you and your children were eligible to enroll in a full price qualified health plan, effective February 1, 2017. This notice further stated that this was because NYSOH had not received income documentation to verify the income listed in your application by the due date.

On January 25, 2017, NYSOH received your updated application for financial assistance with health insurance.

On January 26, 2017, NYSOH issued a notice stating that the income information you entered into your application did not match what NYSOH received from state and federal data sources and more information was needed to confirm the information in your account in order to determine your and your child's eligibility. This notice further directed you to submit household income documentation for you and your children by February 9, 2017.

On February 8, 2017, you uploaded four documents to your NYSOH account.

On February 21, 2017, NYSOH issued an eligibility determination stating that you and your child were eligible for a full price qualified health plan, effective April 1, 2017. This notice further stated that this was because NYSOH had not received income documentation to verify the income listed in your application by the due date.

On February 21, 2017, NYSOH partially validated the income documentation you uploaded on February 8, 2017, but partially invalidated the income documentation you provided.

On February 22, 2017, NYSOH issued a notice stating that the income information you listed in your application did not match what NYSOH received from state and federal data sources and more information was needed to confirm you and your children's eligibility. This notice further directed you to submit household income documentation for you and your children by March 8, 2017.

Also on February 22, 2017, NYSOH issued a notice stating that the income documentation that you had provided did not confirm what was listed in your application. This notice further directed you to submit additional household income documentation for you and your children by March 8, 2017.

No income documentation was uploaded by March 8, 2017.

On April 4, 2017, NYSOH issued an eligibility determination stating that you and your children were eligible to enroll in a full price qualified health plan, effective May 1, 2017. This notice stating that this was because NYSOH had not received the income documentation needed to verify the income listed in your application by the due date.

On April 6, 2017, NYSOH issued a plan enrollment notice confirming your and your children's enrollment in a full price qualified health plan, effective May 1, 2017.

On April 18, 2017, NYSOH issued an eligibility determination stating that you and your children were eligible to enroll in a full price qualified health plan, effective June 1, 2017. This notice stating that this was because NYSOH had not received the income documentation needed to verify the income listed in your application by the due date.

On May 11, 2017, you spoke to NYSOH's Account Review Unit and appealed your and your children's eligibility determination insofar as you were not found eligible for a more affordable program.

On August 22, 2017, you had a hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open until September 6, 2017 to allow you time to submit supporting documentation.

On September 6, 2017, NYSOH received a ten-page fax from you. This documentation was incorporated into the record as "Appellant's Exhibit #1", and the record was closed that day.

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 head of household with two qualifying individuals.
- The application that was submitted on November 10, 2016 listed annual household income of \$22,100.00, consisting of \$13,000.00 you earn from your employment, and \$9,100.00 your oldest child earns from her employment.
- On November 23, 2016, you faxed a seven-page document to NYSOH, including the NYSOH approved barcode, containing three of your oldest child's biweekly paystubs, two of your biweekly paystubs, and a selfattesting letter explaining your living situation.
- 4) The record indicates that this faxed documentation was never linked to your NYSOH for validation.
- 5) On December 6, 2016, you faxed the same seven-page document to NYSOH that you did on November 23, 2016.
- 6) On December 30, 2016, NYSOH invalidated the income documentation that was faxed on December 6, 2016 because the paystubs from your oldest child were not dated 30 days from the date of your November 10, 2016 application.
- 7) You testified that you submitted additional income documentation after December 6, 2016 but before December 25, 2016. However, the record does not indicate that any documentation was received by NYSOH.
- 8) The Hearing Officer left the record open until September 6, 2017 to allow you time to submit proof that a fax was sent between December 6, 2016 and December 25, 2016.
- 9) On September 6, 2017, you faxed documentation to NYSOH, but this faxed documentation did not contain a fax confirmation that any documentation was faxed to NYSOH between December 6, 2016 and December 25, 2016.
- 10) The record indicates that you updated your NYSOH account on January 25, 2017, and the application that was submitted on that date listed an annual household income of \$23,223.20, consisting of \$12,480.00 you earn from your employment, and \$10,743.20 your oldest child earns from her employment.
- 11) On February 8, 2017, you uploaded two of your biweekly paystubs, and two of your oldest child's biweekly paystubs to your NYSOH account.

- 12) Your two biweekly paystubs were dated December 30, 2016 for a gross income amount of \$565.56, and a paystub dated January 13, 2017 for a gross amount of \$768.40. (See Document # and # and #
- 13) On February 21, 2017, NYSOH invalidated the income documentation you uploaded on February 8, 2017 because your paystubs were not dated within 30 days from your January 25, 2017 application.
- 14) Also on February 21, 2017, NYSOH validated your oldest child's biweekly paystubs.
- 15) You testified that you are seeking health insurance for yourself and your children, and that you and your children have been without health insurance since November 2016.

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

Applicable Law and Regulations

Verification Process

For all individuals, whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f) 42 CFR § 435.952).

Timely Notice of Medicaid Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)). NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

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 November 10, 2016 and January 25, 2017 application, that was the 2016 FPL, which is \$20,160.00 for a two -person household (81 Fed. Reg. 4036).

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).

Timely Notice of Eligibility Determination, Essential Plan

The terms of 42 CFR § 435.912 (timely determination of eligibility under the Medicaid program) applies to eligibility determinations for enrollment in the state's standard health plan (42 CFR § 600.320)

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH, to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)). NYSOH must provide Essential Plan applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

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 noncitizen 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 \$24,300.00 for a four -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.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)).

Legal Analysis

The issue is whether NYSOH properly determined that you and your children were eligible to enroll in a full price qualified health plan because you did not submit sufficient documentation of your income.

On November 10, 2016, you submitted an application for financial assistance to NYSOH that listed an expected annual household income of \$22,100.00.

NYSOH was unable to verify the income amount you had listed in your November 10, 2016 application. As a result, on November 11, 2016, NYSOH issued a notice asking you to submit income documentation for you and your children to confirm the income that was listed in your application by November 25, 2016.

For individuals, whose income is needed to calculate eligibility, NYOSH must request data that will allow NYOSH to verify the individuals, household income. If NYOSH cannot verify the income information required to determine eligibility, they must attempt to resolve the inconsistency by giving the applicant the opportunity to submit satisfactory documentary evidence.

The fourth page of the November 11, 2016 notice states that if you receive wages, you need to submit paystubs from the last four weeks, or the last 30 days.

On November 23, 2016, you faxed a seven-page document to NYSOH. This documentation was never linked to you NYSOH account and was never reviewed by a representative. However, after review, the income documentation you faxed on November 23, 2016 is invalid because you did not submit paystubs for your oldest child that were within 30 days from your November 10, 2016 application.

On December 6, 2016, you faxed the same seven-page document to NYSOH that was faxed on November 23, 2016. On December 30, 2016, NYSOH invalidated the income documentation because the income documentation was not within 30 days from your November 10, 2016 application. On December 31, 2016, NYSOH issued a notice stating that additional income documentation was required by December 25, 2016 in order to confirm the income information that was listed in your account.

However, no other income documentation was received by NYSOH by December 25, 2016. Subsequently, NYSOH issued an eligibility determination on January 6, 2017 stating that you and your children were eligible to enroll in a full pay qualified health plan, effective February 1, 2017 because additional income documentation was not received by the due date, and NYSOH was unable to validate the income information listed in your account.

On January 25, 2017, you submitted an updated application for financial assistance to NYSOH that listed an expected annual household income of \$23,223.20.

NYSOH was unable to verify the income amount you had listed in your January 25, 2017 application. As a result, on January 26, 2017, NYSOH issued a notice asking you to submit income documentation for you and your children to confirm the income that was listed in your application.

On February 8, 2017, you uploaded two of your biweekly paystubs, and two of your oldest child's biweekly paystubs to your NYSOH account.

On February 21, 2017, NYSOH validated your oldest child's paystubs, but invalidated your paystubs because they were not within 30 days of your January 25, 2017 application.

On February 22, 2017, NYSOH issued another notice directing you to submit additional household income documentation for you and your children by March 8, 2017.

No additional documentation was received before March 8, 2017. As a result, on April 4, 2017, NYSOH issued an eligibility determination stating that you and your children were eligible to enroll in a full price qualified health plan because NYSOH had not received the income documentation needed to verify the income listed in your application by the due date.

However, after review of the income documentation you provided on February 8, 2017, you submitted a paystub dated December 30, 2016, and a paystub dated January 13, 2017. Both paystubs are dated within 30 days from your January 25, 2017 application. Therefore, these paystubs were sufficient, and should have been validated by NYSOH. As a result, your application should have been considered complete for rendering an eligibility determination as of February 8, 2017.

NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the completed application for an adult and 30 days from the date of the completed application for a child. To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of the completed application to the date NYSOH notifies the applicant of its decision.

Since your application was considered complete as of your February 8, 2017 submission, NYSOH had until March 10, 2017 to issue a determination for your children, and March 25, 2017 to issue a determination for yourself.

Therefore, the April 4, 2017 eligibility determination was not timely and is RESCINDED.

Decision

The April 4, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your household's eligibility, as of February 21, 2017, based on a household of three people, residing in . NYSOH is directed to determine your household's annual expected income based on the documentation you provided on February 8, 2017 (See Document # 1000 and # 1000 and # 1000), and to notify you accordingly. The eligibility determination that is made is to be effective as if it was made on February 8, 2017, the date your application was considered complete.

Effective Date of this Decision: September 15, 2017

How this Decision Affects Your Eligibility

This is not a final determination of your and your children's eligibility.

Your case is being sent back to NYSOH to redetermine your household's eligibility in accordance with your testimony and evidence presented at the hearing.

NYSOH will notify you accordingly.

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

• By fax: 1-855-900-5557

Summary

The April 4, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your household's eligibility, as of February 21, 2017, based on a household of three people, residing in Westchester County. NYSOH is directed to determine your household's annual expected income based on the documentation you provided on February 8, 2017 (See Document # 1999) and # 1999, and to notify you accordingly. The eligibility determination that is made is to be effective as if it was made on February 8, 2017, the date your application was considered complete.

This is not a final determination of your and your children's eligibility.

Your case is being sent back to NYSOH to redetermine your household's eligibility in accordance with your testimony and evidence presented at the 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:



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.

<u> 한국어 (Korean)</u>

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.

(Arabic)العربية

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

বাংলা (Bengali)

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

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).

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.

<u>हिंदी (Hindi)</u>

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。

<u>नेपाली (Nepali)</u>

यो एउटा महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस। 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.

<u>Twi (Twi)</u>

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 کرم5777-355-1855 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.

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).