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

Notice of Decision

Decision Date: September 19, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000019255

[redacted]

Dear [redacted],

On August 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 27, 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.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

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

Decision

Decision Date: September 19, 2017

NY State of Health Account ID:
Appeal Identification Number: AP000000019255

Issues

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

> Did NY State of Health (NYSOH) properly determine that you were eligible to receive up to $293.00 per month in advance payments of the premium tax credit; eligible for cost-sharing reductions; and not eligible for the Essential Plan, effective June 1, 2017?

Procedural History

On February 6, 2017, NYSOH received an application for health insurance.

On February 7, 2017, NYSOH issued an eligibility determination notice, based on the information contained in the February 6, 2017 application, stating that you were eligible to enroll in the Essential Plan with no monthly premiums for a limited time, effective February 1, 2017. You were requested to provide documentation to prove your income by May 7, 2017.

Also on February 7, 2017, NYSOH issued an enrollment notice confirming your selection of an Essential Plan as of February 6, 2017, with such coverage to begin effective February 1, 2017.

On March 4, 2017, NYSOH received four earnings statements issued to you by your employer, , between January 5, 2017 and February 9, 2017.

On March 13, 2017, NYSOH redetermined your eligibility for health insurance.

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On March 14, 2017, NYSOH issued a notice stating that the documentation your provided does not confirm the information in your application. You were requested to provide additional income documentation to confirm your eligibility by May 7, 2017.

Also on March 14, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan with no monthly premiums for a limited time, effective April 1, 2017. You were requested to provide documentation to prove your income by May 7, 2017.

On March 31, 2017, NYSOH received three earnings statements issued to you by between March 2, 2017 and March 23, 2017.

On April 8, 2017, NYSOH issued a notice stating that the documentation your provided does not confirm the information in your application. You were requested to provide additional income documentation to confirm your eligibility by May 7, 2017.

On April 26, 2017, NYSOH received four earnings statements issued to you by between February 24, 2017 and March 23, 2017.

Also on April 26, 2017, NYSOH redetermined your eligibility for health insurance.

On April 27, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for an APTC of up to $293.00 per month and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR), effective June 1, 2017. The notice also stated that you were no longer eligible for the Essential Plan as of May 31, 2017, because your income was over the allowable income limit for that health insurance program.

On May 24, 2017, you spoke to NYSOH's Account Review Unit and appealed that you had been found eligible for receiving tax credits and CSR, as opposed to remaining eligible for the Essential Plan.

On August 31, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: your 2016 tax return reflecting your adjusted gross income during that tax year. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On September 3, 2017, you provided the above referenced document to the Appeals Unit through facsimile.

Accordingly, the record was closed on September 3, 2017.

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Findings of Fact

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

1) You testified that you expect to file your 2017 taxes with a tax filing status of single. You will claim no dependents on that tax return.

2) You are seeking insurance for yourself only

3) The application that you submitted on February 6, 2017 listed annual household income of $8,840.00, consisting of $170.00 per week you attested to earning from your employment with [redacted]. In response to this application, NYSOH found you conditionally eligible for the Essential Plan, effective February 1, 2017. You were requested to provide additional income documentation to confirm your eligibility by May 7, 2017.

4) On March 4, 2017, you provided to NYSOH four earnings statements issued to you by [redacted] between January 5, 2017 and February 9, 2017. However, these income documents were found not to be acceptable since they were virtually illegible.

5) On March 31, 2017, you provided to NYSOH three additional earnings statements issued to you by [redacted] between March 2, 2017 and March 23, 2017. These income documents were found to be insufficient to confirm your eligibility since the date range of earnings statements provided were less than a four-week period required.

6) On April 26, 2017, you provided to NYSOH four additional earnings statements issued to you by [redacted] between February 24, 2017 and March 23, 2017. These earnings statements reflected that you received (1) $340.00 on February 24, 2017, (2) $850.00 on March 2, 2017, (3) $510.00 on March 9, 2017, and (4) $340.00 on March 23, 2017. The year-to-date figures provided in the March 9, 2017 and March 23, 2017 earnings statements reflect that you did not receive any income during the interim week on March 16, 2017.

7) On April 26, 2017, NYSOH redetermined your eligibility based on a household income of $26,520.00, which was apparently based on the income documents you provided on April 26, 2017.

8) You testified, and your NYSOH application reflects, that you will not be taking any deductions on your 2017 tax return.

9) You live in [redacted], New York.

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10) You testified that you were seeking to be found eligible for the Essential Plan, rather than for tax credits, because your position at [redacted] is not a stable one. You also testified that the tax credits provided by NYSOH did not make the plans available more affordable for you. Accordingly, you were seeking reinstatement of your Essential Plan at no monthly premium, effective June 1, 2017. You further testified that you were not seeking a review of your eligibility for Medicaid.

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)).

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 $11,880.00 for a one-person household (81 Federal Register 4036).

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).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2016 FPL, which is $11,880.00 for a one-person household (81 Fed. Reg. 4036).

A person who has a household income that is at or below 150% of the FPL has a $0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as approved January 2016; see https://www.medicaid.gov/basic-health-program/basic-health-program.html).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a $20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

The Essential Plan is considered minimum essential coverage therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (*see* 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

Legal Analysis

The issue is whether NYSOH properly determined that you were eligible to receive an APTC of up to $293.00 per month; eligible for CSR; and not eligible for the Essential Plan, effective June 1, 2017.

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

You testified, and your NYSOH account reflects, that you live in [redacted], New York.

Based on the income documents that you submitted to NYSOH on April 26, 2017, NYSOH redetermined your eligibility based on a household income of $26,520.00. The eligibility determination relied upon that information.

You credibly testified that your earnings from your employer fluctuate considerably, and had provided income documents to NYSOH on April 26, 2017,

at NYSOH's request. The earnings statements reflected that you received (1) $340.00 on February 24, 2017, (2) $850.00 on March 2, 2017, (3) $510.00 on March 9, 2017, and (4) $340.00 on March 23, 2017. The year-to-date figures provided in the March 9, 2017 and March 23, 2017 earnings statements reflect that you did not receive any income during the interim week on March 16, 2017.

It appears that upon reviewing your earnings over a four-week period to calculate your anticipated household income, the NYSOH representative totaled the income you received between February 24, 2017 and March 23, 2017 ($2,040.00) and divided by four weeks to arrive at an average weekly income of $510.00, which over 52 weeks is a household income of $26,520.00. We find such a calculation to be a patent error on the part of NYSOH.

Accordingly, your income over the period provided should have been divided by five weeks, arriving at an average weekly income of $408.00, which over 52 weeks reflects a household income of $21,216.00. This figure is corroborated by the 2016 tax return you provided at the Hearing Officer's request on September 3, 2017, which reflected an adjusted gross income (line 4) of $21,420.00.

Therefore, we find there is sufficient evidence that the April 27, 2017 eligibility determination notice is no longer supported by the credible evidence of record and must be RESCINDED.

Furthermore, your case is RETURNED to NYSOH to redetermine your eligibility based on an anticipated household income $21,216.00 in a one-person household in [redacted] as of April 26, 2017.

Decision

The April 27, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to (1) redetermine your eligibility based on an anticipated household income $21,216.00 in a one-person household in [redacted] as of April 26, 2017, and (2) to facilitate your selection of a health plan once you receive a new determination reflecting your eligibility as of April 26, 2017.

Effective Date of this Decision: September 19, 2017

How this Decision Affects Your Eligibility

You will receive a new determination notice shortly reflecting your updated eligibility.

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 27, 2017 eligibility determination notice is RESCINDED.

Your case is being sent back to NYSOH to (1) redetermine your eligibility based on an anticipated household income $21,216.00 in a one-person household in Nassau County as of April 26, 2017, and (2) to facilitate your selection of a health plan once you receive a new determination reflecting your eligibility as of April 26, 2017.

You will receive a new determination notice shortly reflecting your updated eligibility.

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.

한국어 (Korean)

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

Русский (Russian)

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

العربية(Arabic)

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

বাংলা (Bengali)

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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 निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

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

नेपाली **(Nepali)**

यो एउटा महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई 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 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.

(Urdu)اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

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

אידיש **(Yiddish)**

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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