



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

Notice of Decision

Decision Date: September 21, 2017

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000019806

[REDACTED]

[REDACTED]

On September 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 10, 2017 eligibility determination notice and June 18, 2017 eligibility determination and plan enrollment notices.

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 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 21, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019806

[REDACTED]

Issues

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

Did NY State of Health properly determine that you were eligible for up to \$205.00 per month advanced premium tax credits, effective April 1, 2017?

Did NY State of Health properly determine that you were eligible for cost-sharing reductions, effective April 1, 2017?

Did NY State of Health properly determine that you were ineligible for the Essential Plan, effective April 1, 2017?

Did NY State of Health properly determine that your eligibility for and enrollment in an Essential Plan was effective August 1, 2017?

Procedural History

On March 1, 2017, NY State of Health (NYSOH) received your updated application for financial assistance with health insurance. You also uploaded documentation to your NYSOH account on this date.

On March 2, 2017, NYSOH issued an eligibility determination stating that you were eligible for the Essential Plan with a \$20.00 monthly premium, for a limited time, effective April 1, 2017. This notice also directed you to submit income documentation to confirm your eligibility by May 30, 2017.

Also on March 2, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in the Essential Plan, effective April 1, 2017.

On March 9, 2017, NYSOH validated your income documentation, updated your income information from an expected annual household income of \$39,001.00 to \$43,317.82, and ran an application on your behalf.

On March 10, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for up to \$205.00 per month in advanced premium tax credit and cost-sharing reductions if you enrolled in a silver-level qualified health plan, effective April 1, 2017. The notice also stated that you were not eligible for the Essential Plan because the income you provided was over the allowable income limit for that program.

Also on March 10, 2017, NYSOH issued a plan disenrollment notice stating that you were disenrolled from the Essential Plan with a \$20.00 monthly premium, effective April 1, 2017. This notice further stated that this was because you were no longer eligible to enroll in the Essential Plan.

On June 16, 2017, NYSOH received your updated application for financial assistance with health insurance. That day, a preliminary eligibility determination was prepared stating that you were eligible for the Essential Plan with a \$20.00 monthly premium, effective August 1, 2017.

Also on June 16, 2017, you spoke to the NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential Plan as it did not begin on April 1, 2017.

On June 18, 2017, NYSOH issued an eligibility determination stating that you were eligible for the Essential Plan with a \$20.00 monthly premium, effective August 1, 2017.

Also on June 18, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in the Essential Plan with a \$20.00 monthly premium, effective August 1, 2017.

On September 13, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) The record reflects that you submitted an application to NYSOH for financial assistance with health insurance on March 1, 2017.
- 2) You testified, and the record reflects, that you enrolled in an Essential Plan on March 1, 2017.
- 3) The application that was submitted on March 1, 2017 listed an expected annual household income of \$39,001.00, consisting of income you earn from your employment. You testified that at the time this was correct.
- 4) You testified that it is difficult to state how much you make every two weeks because you work in the [REDACTED], and are awarded bonuses at the end of the month depending on the amount of [REDACTED] assignments you complete.
- 5) You testified that you almost always receive some sort of bonus at the end of the month, but you are never sure what amount it will be.
- 6) You testified, and the record reflects, that you submitted two bi-weekly paystubs on March 1, 2017; which included a paystub dated February 10, 2017 for a gross pay amount of \$1,514.13, and a paystub dated February 24, 2017 for a gross pay amount of \$1,818.01.
- 7) On March 9, 2017, NYSOH validated your income documentation and using the income information from the paystubs changed your expected annual income amount from \$39,001.01 to \$43,317.82.
- 8) You testified that you are unsure if \$43,317.82 is an accurate reflection of your expected annual household income amount, but you believe your expected household income is less than \$40,000.00.
- 9) The record indicates that on March 10, 2017, NYSOH found you eligible for up to \$205.00 per month in advanced premium tax credits and cost-sharing reductions if you enrolled into a silver-level qualified health plan, effective April 1, 2017.
- 10) The record indicates, and you testified, that you submitted an updated application for financial assistance with health insurance on June 16, 2017; which listed an expected annual household income of \$38,678.39.
- 11) You testified, and the record reflects, that you enrolled into an Essential Plan on June 16, 2017.
- 12) You testified that you wanted your enrollment in an Essential Plan to begin on April 1, 2017, and not August 1, 2017.

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).

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).

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

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requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2016 FPL, which is \$20,160.00 for a three-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 for 2017 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 (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 \$20,160.00 for a three-person household (81 Fed. Reg. 4036).

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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).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see also 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible for up to \$205.00 per month in advanced premium tax credits, effective April 1, 2017.

The application that was submitted on March 1, 2017 listed an annual household income of \$39,001.01.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her household's projected annual income. NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

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You uploaded income documentation on March 1, 2017; which included a biweekly paystub dated February 10, 2017 for a gross pay amount of \$1,514.13, and a paystub dated February 24, 2017 for a gross pay amount of \$1,818.01. Using the income information in the documentation you provided, NYSOH updated your expected annual income from \$39,001.00 to \$43,317.82, and a new application was submitted on your behalf.

Therefore, the application that was submitted on March 9, 2017 listed an annual expected household income of \$43,317.82 and the eligibility determination relied upon this information.

You are in a three -person household. You expect to file your 2017 income taxes as head of household and will claim two dependents on that tax return.

You reside in [REDACTED], where the second lowest cost silver plan available for an individual through NYSOH costs \$456.46 per month.

An annual income of \$43,317.82 is 214.87% of the 2016 FPL for a three -person household. At 214.87% of the FPL, the expected contribution to the cost of the health insurance premium is 6.96% of income, or \$251.24 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 an individual in your county (\$456.46 per month) minus your expected contribution (\$251.24 per month), which equals \$205.22 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$205.00 per month in advanced premium tax credits.

The second issue is whether you were properly found eligible for cost-sharing reductions, effective April 1, 2017.

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 \$43,317.82 is 214.87% of the applicable FPL, NYSOH correctly found you to be eligible for cost sharing reductions.

The third issue under review is whether NYSOH properly determined that you were ineligible for the Essential Plan.

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 \$20,160.00 for a three-person household. Since an annual household income of \$43,317.82 is 214.87% of the 2016 FPL, NYSOH properly found you to be ineligible for the Essential Plan.

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Since the March 10, 2017 eligibility determination notice properly stated that, based on the income documentation you provided, you were eligible for up to \$205.00 per month in advanced premium tax credits, eligible for cost-sharing reductions, and ineligible for the Essential Plan, it is correct and is AFFIRMED.

The fourth issue is whether NYSOH properly determined that your eligibility for and enrollment in the Essential Plan was effective August 1, 2017.

You testified, and the record indicates, that you updated your NYSOH application on June 16, 2017. As a result, you were found eligible for the Essential Plan with a \$20.00 monthly premium and you enrolled into a plan that day.

The date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

On June 16, 2017, the record indicates that you selected an Essential Plan for enrollment, so your enrollment properly took effect on the first day of the second month following June 2017; that is, on August 1, 2017.

Therefore, the June 18, 2017 eligibility determination and plan enrollment notices stating that your eligibility for and enrollment in the Essential Plan was effective August 1, 2017, is correct and must be AFFIRMED.

Decision

The March 10, 2017 eligibility determination notice is AFFIRMED.

The June 18, 2017 eligibility determination notice is AFFIRMED.

The June 18, 2017 plan enrollment notice is AFFIRMED.

Effective Date of this Decision: September 21, 2017

How this Decision Affects Your Eligibility

NYSOH properly found you eligible for up to \$205.00 per month in advanced premium tax credits, effective April 1, 2017.

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).

NYSOH properly found you eligible for cost-sharing reductions, effective April 1, 2017.

NYSOH properly found you ineligible for the Essential Plan, effective April 1, 2017.

This decision does not change your eligibility.

NYSOH properly found you eligible for the Essential Plan as of August 1, 2017.

The effective date of your Essential Plan is August 1, 2017.

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

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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):

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- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
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- By fax: 1-855-900-5557

Summary

The March 10, 2017 eligibility determination notice is AFFIRMED.

NYSOH properly found you eligible for up to \$205.00 per month in advanced premium tax credits, effective April 1, 2017.

NYSOH properly found you eligible for cost-sharing reductions, effective April 1, 2017.

NYSOH properly found you ineligible for the Essential Plan, effective April 1, 2017.

The June 18, 2017 eligibility determination notice is AFFIRMED.

The June 18, 2017 plan enrollment notice is AFFIRMED.

This decision does not change your eligibility.

NYSOH properly found you eligible for the Essential Plan as of August 1, 2017.

The effective date of your Essential Plan is August 1, 2017.

Legal Authority

We are issuing this determination 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 مجانًا.

বাংলা (Bengali)

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Français (French)

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

हिंदी (Hindi)

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

日本語 (Japanese)

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

नेपाली (Nepali)

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

Polski (Polish)

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

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. y&b&tumi ama wo obi a okyer& 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.

שׂוֹדִישׁ (Yiddish)

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

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