



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

Notice of Decision

Decision Date: October 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020295

[REDACTED]

Dear [REDACTED]

On September 28, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 7, 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).

This page intentionally left blank.



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

Decision

Decision Date: October 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020295



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 and your spouse were eligible for the Essential Plan with a \$20.00 premium per month, effective August 1, 2017?

Procedural History

On June 12, 2017, you updated your household's application for financial assistance with health insurance.

On June 13, 2017, NY State of Health (NYSOH) issued a notice stating that the income information in your application did not match what NYSOH had received from state and federal data sources. This notice directed you to submit income documentation for your household by June 27, 2017 in order to determine your and your spouse's eligibility for financial assistance.

On July 2, 2017, you uploaded income documentation to your NYSOH account.

On July 3, 2017, NYSOH reviewed this documentation and determined that it was insufficient to resolve the inconsistency in your account.

Also on July 3, 2017, you uploaded additional income documentation to your NYSOH account.

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).

On July 4, 2017, NYSOH issued a notice advising you that the income documentation you submitted did not confirm the information in your application. This notice directed you to submit income documentation for your household by July 27, 2017.

On July 5, 2017, NYSOH reviewed the income documentation you submitted, recalculated your household income based on this documentation, updated the income in your household's application, and submitted a new application on your and your spouse's behalf.

On July 6, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible for the Essential Plan with a \$20.00 premium per month, effective August 1, 2017.

Also on July 6, 2017, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in an Essential Plan with a \$20.00 premium per month as of August 1, 2017.

Also on July 6, 2017, you updated your household's application for financial assistance with health insurance. That day, a preliminary eligibility determination was prepared stating that you and your spouse were eligible for the Essential Plan with a \$20.00 premium per month, effective August 1, 2017.

Finally, on July 6, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you and your spouse were not found eligible for the Essential Plan with a \$0.00 premium per month.

On July 7, 2017, NYSOH issued a notice of eligibility determination, based on the July 6, 2017 application, stating that you and your spouse were eligible to enroll in the Essential Plan with a \$20.00 premium per month, effective August 1, 2017.

On September 28, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open for fourteen days to allow you the opportunity to submit additional income documentation.

On October 5, 2017, the Appeals Unit received via fax copies of four of your spouse's paystubs as well as your final paystub from your former employer. These documents were collectively marked as Appellant's Exhibit #1 and incorporated into the record. The record is now closed.

Findings of Fact

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

- 1) You testified that you expect to file your 2017 taxes with a tax filing status of married filing jointly. You will claim one dependent on that tax return.
- 2) You are seeking insurance for yourself and your spouse.
- 3) The application that was submitted on June 12, 2017 listed annual household income of \$27,069.62, consisting of \$3,035.22 you earned from your employment and \$24,034.40 your spouse earns from his employment. You testified that this amount was correct.
- 4) Your application states, and you confirmed that you and your spouse will not be taking any deductions on your 2017 tax return.
- 5) Your application states, and you confirmed, that you live in Oswego County.
- 6) On July 2, 2017, you uploaded an unemployment insurance monetary benefit determination for your claim starting on June 26, 2017, which states that you do not qualify for unemployment insurance benefits because you were not paid at least \$2,100.00 in wages in one of the calendar quarters of your base period.
- 7) On July 3, 2017, you uploaded four of your spouse's paystubs. The first is for pay date June 8, 2017 for a gross pay amount of \$560.00; the second is for pay date June 15, 2017 for a gross pay amount of \$581.00; the third is for pay date June 22, 2017 for a gross pay amount of \$562.10; the fourth is for pay date June 29, 2017 for a gross pay amount of \$560.00.
- 8) On July 5, 2017, NYSOH reviewed the income documentation you submitted and recalculated your annual household income to be \$32,455.52.
- 9) You testified that you last worked on June 11, 2017, and that you applied for unemployment benefits, but were denied. You further testified that you have not returned to work since that time. You testified that you earned \$3,035.22 in 2017.
- 10) You testified that your spouse's annual expected income is currently \$29,420.30, which he earns from employment. You explained that your spouse is paid weekly.

- 11) You testified that you have bills including \$850.00 per month in rent, \$335.78 in utilities, \$361.26 per month in car payments, \$597.00 every 6 months in car insurance, car maintenance, medical expenses which range from \$207.31 per month to \$322.31 per month, that you would like considered when determining your household's eligibility for financial assistance.
- 12) On October 5, 2017, you submitted your final paystub from your former employer which shows dates worked June 5, 2017 to June 11, 2017 for a gross pay amount of \$154.85 and a gross year to date amount of \$3,190.00.
- 13) Also on October 5, 2017, you submitted four of your spouse's paystubs. The first is for pay date September 14, 2017 for a gross pay amount of \$560.00; the second is for pay date September 21, 2017 for a gross pay amount of \$565.25; the third is for pay date September 28, 2017 for a gross pay amount of \$560.00; the fourth is for pay period September 25, 2017 to October 1, 2017 for pay date October 5, 2017 for a gross pay amount of \$560.00 and a gross year to date amount of \$22,503.15.
- 14) You testified that you are seeking for yourself and your spouse to be found eligible for the Essential Plan with a \$0.00 premium per month.

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

Applicable Law and Regulations

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).

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)).

Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term "modified adjusted gross income" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

"Adjusted gross income" means, in the case of an individual taxpayer, gross federal taxable income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

Medical expenses and dental expenses may be itemized on a Form 1040 Schedule A; however, these expenses are not used to compute adjusted gross income (26 USC § 213(a); Internal Revenue Service (IRS) Publication 502 (2016)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse were eligible for the Essential Plan with a \$20.00 monthly premium, effective August 1, 2017.

You and your spouse expect to file your 2017 tax return as married filing jointly and will claim one dependent on that return. Therefore, you and your spouse are in a three-person household.

On July 5, 2017, NYSOH recalculated your household's modified adjusted gross income based on the documentation you submitted. NYSOH recalculated your spouse's annual expected income to be \$29,420.30 (gross of \$2,263.10 divided by four weeks, for a weekly average of \$565.78, multiplied by 52 weeks) and utilized your stated income of \$3,035.22, yielding an expected gross annual household income of \$32,455.52.

The application that was submitted on July 6, 2017 listed annual household income of \$32,455.52 and the eligibility determination relied upon that information.

During the hearing, you asked that your current expenses, which include \$850.00 per month in rent, \$335.78 in utilities, \$361.26 per month in car payments, \$597.00 every 6 months in car insurance, car maintenance, medical expenses which range from \$207.31 per month to \$322.31 per month, be considered when determining your household's eligibility for financial assistance.

However, the Internal Revenue Service rules do not allow living expenses such as rent, utilities, car payments, car insurance, and car maintenance to be deducted from the calculation of your adjusted gross income. Furthermore, although medical and dental expenses may be itemized on your tax return, the Internal Revenue Service rules do not allow medical expenses to be deducted from the calculation of your adjusted gross income. Therefore, these expenses cannot be deducted when NYSOH computes your household's modified adjusted gross income for the purpose of determining your eligibility for financial assistance with health insurance. Therefore, NYSOH correctly determined your household income to be \$32,455.52.

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. Applicants with a household income that is at or below 150% of the FPL have a \$0.00 premium contribution and applicants with a household income that is greater than 150% of the FPL or below 200% of the FPL have a \$20.00 per month premium contribution.

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).

On the date of your application, the relevant FPL was \$20,160.00 for a three-person household. Since an annual household income of \$32,455.52 is 160.99% of the 2016 FPL, NYSOH properly found you and your spouse to be eligible for the Essential Plan with a \$20.00 monthly premium.

Since the July 7, 2017 eligibility determination properly stated that, based on the information documentation you provided, you and your spouse were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, it is correct and is AFFIRMED.

Following the hearing, you submitted additional income documentation, however, this documentation does not show any significant change in household income from the documentation you previously submitted. Therefore, the NYSOH Appeals Unit declines to return you case to NYSOH for any further eligibility redeterminations.

Decision

The July 7, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: October 20, 2017

How this Decision Affects Your Eligibility

You and your spouse remain eligible to enroll in the Essential Plan with a \$20.00 monthly premium.

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

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).

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 July 7, 2017 eligibility determination notice is AFFIRMED.

You and your spouse remain eligible to enroll in the Essential Plan with a \$20.00 monthly premium.

Legal Authority

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).

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 مجانًا.

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).

0000 00 0000000000000000 0000 000 00000 000000 000 0000000000 000000000 00 000000,
00000000 0000 1-855-355-5777 0000000 00 000000 00000 00 0000000 0000 00000 00000000000 00000
0000000 00000 00000000 00000 000000

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 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.

שׂוֹדִיִּשׁ (Yiddish)

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).

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).