



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

Notice of Decision

Decision Date: November 14, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021546

[REDACTED]

[REDACTED]

On October 23, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 23, 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021546



Issues

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

Did NY State of Health (NYSOH) properly determine that you were eligible to purchase a qualified health plan (QHP) at full cost, effective October 1, 2017?

Did NY State of Health properly determine that you were not eligible for Medicaid?

Procedural History

According to your NYSOH account, during the last coverage period, you were determined Medicaid eligible as of October 1, 2016, and were enrolled in an MMC plan as of September 1, 2016 through September 30, 2017.

On August 3, 2017, NYSOH issued a notice stating that you can get health coverage through NYSOH and needed to go to its website between August 16, 2017 and September 15, 2017 to pick a plan for the next coverage year. That notice also contained an eligibility determination stating that you no longer qualified for health care coverage under Medicaid, Child Health Plus, the Essential Plan or for tax credits or cost sharing reductions to help you pay for health coverage, but do now qualify to buy a health plan at full cost through NYSOH, effective October 1, 2017. The reason stated that you qualified to purchase a health plan at full cost was because federal and state data sources showed your income is over \$64,080.00.

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On August 17, 2017, NYSOH issued a disenrollment notice stating that your coverage in your Medicaid Managed Care (MMC) plan was to end effective September 30, 2017, because you were no longer eligible to enroll in such plan.

Also on August 14, 2017, NYSOH received your written notice of appeal, dated August 7, 2017, in which you appealed the termination of your MMC plan coverage as of October 1, 2017.

On August 23, 2017, your request for Aid-to-Continue during the appeal process was granted and eligibility determination and plan enrollment notices were issued, effective October 1, 2017 such that your coverage in your MMC plan was restored pending the outcome of your appeal.

On October 23, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to November 7, 2017, to allow you to submit supporting documents.

That same day, you uploaded income documentation to your NYSOH [REDACTED]

No additional documents were provided by November 7, 2017, 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 a qualifying individual) and will claim one dependent on that tax return.
- 2) You are seeking insurance for only yourself and want to be redetermined eligible for Medicaid.
- 3) In your August 7, 2017 notice of appeal, you indicated that a \$12,000.00 loan you had taken from your 401k in 2015 was counted as taxable income on your 2016 federal tax return such that your 2016 income was not accurately represented.
- 4) You also indicated in that letter that you only worked 73.50 hours in 2017 for a gross pay of \$1,788.25 and received \$2,580.00 in unemployment benefits this year.

- 5) The application that was updated on August 22, 2017, indicated that your annual household income was determined from state and federal data sources showing earnings of over \$64,080.00. You testified that your earnings would be much less this year.
- 6) You uploaded a copy of your NYS tax filings for 2016, which showed a federal adjusted gross income of \$73,402.00 and a Summary of W-2 Statement showing \$49,119.00 [REDACTED]
- 7) You testified that your income has changed since you are being laid off as of July 31, 2016, and you received unemployment benefits until those benefits ran out in 2017.
- 8) You uploaded an Official Record of Benefit Payment History from NYS Department of Labor, dated October 23, 2017, showing that your last unemployment benefit payment of \$430.00 was released on February 6, 2017 [REDACTED] Based on this report, you received payments of \$430.00 each by direct deposit on January 3, 9, 17, 23, and 30, 2017 and February 6, 2017, totaling \$2,580.00.
- 9) You testified that you have also been living off distributions from your 401K and, as of September 30, 2017, have taken \$7,765.00 in distributions in 2017.
- 10) You uploaded a letter, dated October 23, 2017, and copies of your 401k account activity [REDACTED] The documentation submitted shows that the amount available in your 401k has dropped by approximately this amount in 2017 with certain withholdings being applied to the distributions.
- 11) Your application states that you live in [REDACTED]

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

Applicable Law and Regulations

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

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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 application, that was the 2017 FPL, which is \$16,240.00 for a two-person household (82 Fed. Reg. 8831).

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).

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.

Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible to purchase a QHP at full cost, effective October 1, 2017, and not eligible for Medicaid.

The application that was updated on August 22, 2017 relied upon state and federal data sources listed an annual household income more than \$64,080.00, and the eligibility determination relied upon that information. Specifically, your 2016 NYS tax return lists your federal adjusted gross income as \$73,402.00,

You are in a two-person household for purposes of this analysis. This is because you expect to file your 2017 income taxes as Head of Household (with a qualifying individual) and will claim one dependent on that tax return.

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Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$16,240.00 for a two-person household. Since \$73,402.00 is 451.98% of the 2017 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the information from state and federal data sources.

Since the August 23, 2017 eligibility determination notice properly stated that, based on the information from state and federal data source, you were eligible to purchase a QHP as of October 1, 2017, and were ineligible for insurance affordability programs through NYSOH, including Medicaid, it was correct when made and is AFFIRMED.

However and notwithstanding, you credibly testified and submitted documentary evidence to show that your employment and earnings have changed significantly in 2017. Further, the record reflects that your eligibility in 2017 was based on 2016 data, which does not substantiate your household income for 2017. The record shows that you were laid off on July 31, 2016 and, in 2017, you earned \$1,788.15, received \$2,580.00 in unemployment benefits, which were exhausted as of February 6, 2017, and took distributions from your 401k of \$7,765.00 throughout the year and up to September 30, 2017. Therefore, it is reasonable to conclude that your projected household income for 2017 will be \$14,721.48 ($\$1,788.15 + \$2,580.00 + \$10,353.33$ (401k distributions of $\$7,765.00/9$ months = $\$862.78$ per month x 12 months)).

Now that a more accurate representation of your 2017 projected household income is available, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance, using a two-person household with a household income of \$14,721.00, for an individual residing in Erie County.

Decision

The August 23, 2017 eligibility determination notice was correct when made and is AFFIRMED.

Now that a more accurate representation of your 2017 projected household income is available, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance, using a two-person household with a household income of \$14,721.00, for an individual residing in [REDACTED]. NYSOH will notify you of its redetermination of your eligibility.

Effective Date of this Decision: November 14, 2017

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How this Decision Affects Your Eligibility

You were properly found eligible to purchase a QHP at full cost and ineligible for Medicaid, effective October 1, 2017, based on information from state and federal data sources regarding your 2016 income.

You credibly testified and submitted documentary evidence to show that your employment and earnings have changed significantly in 2017.

Your case is being sent back to NYSOH to redetermine your eligibility for financial assistance using the information noted above. NYSOH will notify you once this has been done.

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

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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):

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- 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 August 23, 2017 eligibility determination notice was correct when made and is AFFIRMED.

Now that a more accurate representation of your 2017 projected household income is available, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance, using a two-person household with a household income of \$14,721.00, for an individual residing in Erie County. NYSOH will notify you of its redetermination of your eligibility.

You were properly found eligible to purchase a QHP at full cost and ineligible for Medicaid, effective October 1, 2017, based on information from state and federal data sources regarding your 2016 income.

You credibly testified and submitted documentary evidence to show that your employment and earnings have changed significantly in 2017.

Your case is being sent back to NYSOH to redetermine your eligibility for financial assistance using the information noted above. NYSOH will notify you once this has been done.

Legal Authority

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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。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

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

Русский (Russian)

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

العربية (Arabic)

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

বাংলা (Bengali)

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।

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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. ye&btumi ama wo obi a okyerε kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

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

אידיש (Yiddish)

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

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