



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

Notice of Decision

Decision Date: November 29, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022001

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

On November 7, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health’s August 30, 2017 eligibility determination.

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 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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[REDACTED]
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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 enroll in the Essential Plan, effective October 1, 2017?

Did NYSOH properly determine that you were not eligible for Medicaid, as of August 29, 2017?

Procedural History

On August 16, 2017, NYSOH received your updated application for financial assistance. You also uploaded documentation to your NYSOH account that day.

On August 17, 2017, NYSOH issued a notice stating that your application had been reviewed, but that the income information in the application did not match what NYSOH received from state and federal data sources. The notice directed you to submit documentation of your household income by August 31, 2017.

On August 18, 2017, NYSOH issued a notice stating that your enrollment in your Medicaid Managed Care (MMC) plan was ending, effective September 30, 2017, because you were no longer eligible to enroll in your MMC plan.

Also on August 18, 2017, NYSOH issued a notice stating that the income documentation you submitted did not confirm the information in your application. The notice directed you to submit documentation of your income by September 15, 2017.

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On August 21, 2017, you uploaded income documentation to your NYSOH account.

On August 23, 2017, NYSOH issued a notice stating that the income documentation you submitted did not confirm the information in your application. The notice directed you to submit documentation of your income by September 15, 2017.

On August 28, 2017, you uploaded income documentation to your NYSOH account.

On August 29, 2017, NYSOH redetermined your eligibility.

On August 30, 2017, NYSOH issue a notice stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective October 1, 2017.

Also on August 30, 2017, you spoke to NYSOH's Account Review Unit and requested an appeal of that eligibility determination, insofar as you were not eligible for Medicaid. You also requested Aid to Continue, pending the outcome of your appeal.

On September 6, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid for a limited time, effective October 1, 2017. This was because your request for Aid to Continue was granted, pending the outcome of your appeal.

Also on September 6, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an MMC plan, beginning October 1, 2017. This was also because your request for Aid to Continue was granted, pending the outcome of your appeal.

On November 7, 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 through November 22, 2017 to allow you to submit additional documentation.

On November 8, 2017, you uploaded documentation to your NYSOH account. 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 single. You will claim no dependents on that tax return.
- 2) In your August 16, 2017 application, you indicated that you expect to earn \$35,100.00 in 2017, and to take \$20,881.00 in deductions. Your application indicates that these deductions consist of \$3,366.00 in "Other Adjustments: food expenses" and \$17,515.00 in "Deductible part of Self-Employment (S/E) Tax."
- 3) On August 16, 2017, you uploaded a signed, dated copy of your 2016 IRS Form 1040, showing that your 2016 adjusted gross income was \$37,168.00, and that you did not take any deductions that impacted your adjusted gross income [REDACTED]
- 4) On August 21, 2017 and August 28, 2017, you uploaded paystubs to your NYSOH account for the following dates and taxable wages:
 - a. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]).
- 5) NYSOH calculated your expected annual gross income to be \$40,950.00, but subtracted the \$20,881.00 in deductions that you entered into your application on August 16, 2017, leaving an income of \$20,069.00. The August 30, 2017 eligibility determination relied on that information.
- 6) You testified that you believe your 2017 gross income will be \$36,000.00, and that you are basing this on your 2016 W2.
- 7) You testified that you generally work 22 hours per week, and earn \$30.00 an hour.
- 8) You testified that you are not allowed to earn overtime at your job, and that you are kept under a certain number of hours per week so that you do not qualify to enroll in health insurance through your employer.
- 9) You testified that you are a [REDACTED], but that you receive a W2.

- 10) You testified that your cost of living has gone up, and you cannot afford to pay for health insurance on top of your other costs, such as your mortgage and maintenance payments.
- 11) You testified that you do not believe you will be taking any deductions on your tax return that you did not take last year.
- 12) Your application states that you live in [REDACTED].
- 13) After the hearing, the record was left open so that you could submit your most recent paystubs. On November 8, 2017, you uploaded a paystub to your NYSOH account dated November 2, 2017, for taxable wages of \$627.75, and year-to-date taxable earnings of \$35,781.75 ([REDACTED]).

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 \$11,880.00 for a one-person household (81 Federal Register 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/downloads/ny-blueprint.pdf>).

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).

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 application, that was the 2017 FPL, which is \$12,060.00 for a one-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 under review is whether NYSOH properly determined that you were eligible for the Essential Plan, effective October 1, 2017.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,880.00 for a one-person household.

You submitted income documentation to NYSOH, and NYSOH utilized that documentation to calculate your expected gross annual income, and arrived at a figure of \$20,069.00. Since this represented 168.93% of the applicable FPL, NYSOH determined that you were eligible for the Essential Plan.

However, this income amount was incorrect. NYSOH's eligibility determinations must be based on "modified adjusted gross income," which is adjusted gross income, as defined by the Internal Revenue Service, increased by certain amounts that may have been excluded from a taxpayer's gross income. "Adjusted gross income" is the gross federal taxable income of an individual, minus certain specific deductions that are generally found above line 37 of an IRS Form 1040.

Your August 16, 2017 application listed \$20,881.00 in deductions, and NYSOH relied on this information in its August 30, 2017 eligibility determination. However, there is no indication that you are, in fact, entitled to those deductions. You testified that you are a freelancer; however, you receive a W2 and have taxes taken out of your earnings, as evidenced by documentation in the record. Therefore, there is no basis in the record to support the contention in your application that you will be deducting \$17,515.00 in self-employment taxes.

Additionally, you further testified that you expect your income and tax filing information for 2017 to be very similar to what it was in 2016. The 2016 IRS Form 1040 that you submitted does not show any deductions that were taken out before your "adjusted gross income" was calculated (line 37 of your IRS Form 1040). Therefore, there is also no basis for the \$3,366.00 in "Other Adjustments: food expenses" that you included in your August 16, 2017 application.

You have not submitted any documentation that would indicate that you are entitled to any deductions for purposes of calculating your eligibility for financial assistance through NYSOH. Therefore, no deductions should have been included when NYSOH determined your eligibility. For this reason, NYSOH's August 30, 2017 eligibility determination notice was not correct, because it was based on incorrect income information.

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.

The documentation you provided after the hearing indicates that your year-to-date taxable income, as of your November 2, 2017 paycheck, was \$35,781.75. The record indicates you are paid weekly. As there are eight weekly pay periods left in the year after November 2, 2017, the \$35,781.75 you have earned to date therefore represents 44 weeks of pay, at an average of \$813.22 per week. Therefore, it is expected that you will earn approximately \$6,505.76 between now and the end of the year, for an expected gross annual income of \$42,287.51 for 2017. Since this represents 355.95% of the 2016 FPL, you are over the income for Essential Plan coverage, based on the information in the record.

The second issue under review is whether NYSOH properly determined that you were not eligible for Medicaid.

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 \$12,060.00 for a one-person household. Based on the \$20,069.00 income figure that NYSOH utilized in its August 30, 2017 eligibility determination (which represents 166.41% of the 2017 FPL), NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis. As the record reflects that your 2017 income is actually much higher than \$20,069.00, you remain ineligible for Medicaid.

Since the August 30, 2017 eligibility determination was based on incorrect income information, it is RESCINDED.

As the record now contains a more accurate representation of what your expected annual household income is for 2017, your case is RETURNED to NYSOH to redetermine your eligibility for 2017 coverage based on a one-person household, residing in New York County with an annual household income of \$42,287.51.

NYSOH is directed to notify you in writing of your new eligibility.

PLEASE NOTE: This decision impacts your 2017 eligibility ONLY. You must update your NYSOH account during the open enrollment period, which runs from November 1, 2017 through January 31, 2018, if you wish to have your eligibility for financial assistance in 2018 determined.

Decision

The August 30, 2017 eligibility determination notice is RESCINDED.

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).

Your case is RETURNED to NYSOH to redetermine your eligibility for 2017 coverage based on a one-person household, residing in New York County, with an annual household income of \$42,287.51.

NYSOH is directed to notify you in writing of your new eligibility.

Effective Date of this Decision: November 29, 2017

How this Decision Affects Your Eligibility

You are not eligible for Medicaid, based on your expected annual income for 2017.

You are not eligible for the Essential Plan, based on your expected annual income for 2017.

Your case is being sent back to NYSOH to redetermine your eligibility for 2017 coverage, based on the information in the record, and the information provided during and after the hearing.

NYSOH will notify you in writing of your new eligibility.

This eligibility is for 2017 ONLY. You must update your NYSOH application during open enrollment (November 1, 2017 through January 1, 2018) if you wish to have your eligibility for financial assistance in 2018 determined.

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 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).

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 August 30, 2017 eligibility determination notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine your eligibility for 2017 coverage based on a one-person household, residing in New York County, with an annual household income of \$42,287.51.

NYSOH is directed to notify you in writing of your new eligibility.

You are not eligible for Medicaid, based on your expected annual income for 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).

You are not eligible for the Essential Plan, based on your expected annual income for 2017.

Your case is being sent back to NYSOH to redetermine your eligibility for 2017 coverage, based on the information in the record, and the information provided during and after the hearing.

NYSOH will notify you in writing of your new eligibility.

This eligibility is for 2017 ONLY. You must update your NYSOH application during open enrollment (November 1, 2017 through January 1, 2018) if you wish to have your eligibility for financial assistance in 2018 determined.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]

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 مجاناً.

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).

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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 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.

אַײַדיש (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).