



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

## Notice of Decision

Decision Date: November 21, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022066



Dear [REDACTED],

On November 8, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 9, 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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## Decision

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NY State of Health Account ID: [REDACTED]  
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## Issues

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

Did NYSOH properly determine that you and your spouse were ineligible for the Essential Plan?

Did NY State of Health properly determine that you and your spouse were eligible for an advanced premium tax credit of up to \$290.00 per month, effective August 1, 2017?

## Procedural History

On April 4, 2017, NY State of Health (NYSOH) received your updated application for financial assistance with health insurance.

On April 5, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective May 1, 2017. The notice directed you to provide household income documentation to confirm your and your spouse's eligibility before July 3, 2017.

Also on April 5, 2017, NYSOH issued a plan enrollment notice confirming your and your spouse's enrollment in an Essential Plan, effective May 1, 2017.

On April 21, 2017, you faxed a thirteen page document to NYSOH and this documentation was uploaded to your NYSOH account the same day.

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On April 24, 2017, NYSOH invalidated the documentation you faxed on April 21, 2017.

On April 25, 2017, NYSOH issued a notice stating that the income documentation you submitted does not confirm the information in your application. This notice further directed you to submit additional income documentation to be submitted by July 3, 2017.

On May 1, 2017, you faxed a twenty-two page document to NYSOH, which was uploaded to your account on May 5, 2017.

On July 9, 2017, NYSOH issued an eligibility determination stating that you and your spouse were eligible for an advanced premium tax credit of up to \$290.00 per month, effective August 1, 2017, and that you and your spouse were no longer eligible for the Essential Plan, effective July 31, 2017. This notice further stated that this was because state and federal data sources show that your household income is above the allowable income limits for that program.

On July 10, 2017, NYSOH issued a disenrollment notice stating that your and your spouse's enrollment in your Essential Plans terminated, effective July 31, 2017.

On July 25, 2017, NYSOH received your updated application for financial assistance with health insurance.

On July 26, 2017, NYSOH issued an eligibility determination stating that you and your spouse were eligible for the Essential Plan with a \$20.00 monthly premium, effective September 1, 2017.

Also on July 26, 2017, NYSOH issued a plan enrollment notice confirming your and your spouse's enrollment in the Essential Plan, effective September 1, 2017.

On September 1, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your and your spouse's Essential Plan for the month of August 2017.

On November 8, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and the record was closed at the end of the hearing.

## **Findings of Fact**

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

- 1) You testified, and your NYSOH application indicates, that you receive all of your notices from NYSOH via regular mail.
- 2) You testified that you did receive the notice indicating that your and your spouse's income was only for a limited time and that you needed to provide household income documentation in order to confirm your and your spouse's eligibility.
- 3) You testified, and the record indicates, that you faxed income documentation on April 21, 2017.
- 4) The record indicates that, on April 24, 2017, NYSOH invalidated the income documentation that you faxed on April 21, 2017.
- 5) You testified, and the record indicates, that you faxed additional income documentation on May 1, 2017.
- 6) The record indicates that the income documentation that you faxed on May 1, 2017 was uploaded to your NYSOH account on May 5, 2017.
- 7) There is no indication in the record that the income documentation that was faxed on May 1, 2017 was reviewed by NYSOH.
- 8) Your NYSOH account indicates that, on July 8, 2017, an application was run on your and your spouse's behalf using state and federal data sources.
- 9) The updated application as of July 8, 2017, listed an annual household income of \$34,680.00, which consists of \$20,000.00 you earn from your employment, and \$14,680.00 your spouse earns from her employment.
- 10) Your application indicates that you and your spouse expect to file your 2017 tax return with a tax filing status as married filing jointly and will claim two dependents on that tax return.
- 11) You testified, and your NYSOH application indicates, that you are seeking insurance for yourself and your spouse.
- 12) Your NYSOH application states that you and your spouse do not plan on taking any deductions on your 2017 tax return.
- 13) You and your spouse testified that you are seeking reinstatement of your Essential Plan for the month of August 2017, because you have unpaid medical bills from that month.

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).

### 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 \$24,300.00 for a four-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).

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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)).

### 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)).

## **Legal Analysis**

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

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. For individuals seeking enrollment in the Essential Plan, 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.

In the eligibility determination notice issued on April 5, 2017, you were advised that you and your spouse were eligible for the Essential Plan for a limited time, and that you need to confirm your and your spouse's household income before July 3, 2017. Therefore, you faxed an income documentation to NYSOH on April 21, 2017; which was invalidated on April 24, 2017. NYSOH issued a notice on April 25, 2017, stating that additional income documentation was needed in order to confirm the information listed in your account before July 3, 2017. Because of this notice, you faxed additional documentation on May 1, 2017, which was uploaded to your account on May 5, 2017. The record reflects that this income documentation was never reviewed by NYSOH.

Your and your spouse's household income information was ascertainable on May 5, 2017. However, the system ran an application on July 8, 2017 on your and your spouse's behalf using state and federal data sources. The application that

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was submitted on July 8, 2017 listed an annual household income of \$34,680.00; which was obtained from state and federal data sources. The July 9, 2017 eligibility determination relied upon that information.

You and your spouse are in a four-person household. This is because you expect to file your 2017 income taxes as married filing jointly and will claim two dependents on that tax return.

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 \$24,300.00 for a four-person household. Since an annual household income of \$34,680.00 is 142.72% of the 2016 FPL, NYSOH incorrectly found you and your spouse ineligible for the Essential Plan.

The second issue under review is whether NYSOH properly determined that you and your spouse were eligible for an APTC of up to \$290.00 per month, effective August 1, 2017.

APTC is generally available to a person who are eligible to enroll in a qualified health plan and expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), and not otherwise eligible for minimum essential coverage. 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

Since the information provided in your July 8, 2017 application indicates that you and your spouse should have been found eligible for the Essential Plan, effective August 1, 2017, you and your spouse were improperly found eligible for the APTC.

Since the July 9, 2017 eligibility determination incorrectly stated that based on state and federal data sources, you and your spouse were eligible for up to \$290.00 per month in APTC and ineligible for the Essential Plan, it is **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine your and your spouse's eligibility as of July 9, 2017 based on a household of four people, for a couple residing in Nassau County, with an annual expected income of \$34,680.00.

NYSOH is directed to assist you in enrolling in a health plan that corresponds with your and your spouse's eligibility redetermination as of July 9, 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).



## **Decision**

The July 9, 2017 eligibility determination is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your and your spouse's eligibility as of July 9, 2017 based on a household of four people, for a couple residing in Nassau County, with an annual expected income of \$34,680.00, and to notify you accordingly.

NYSOH is directed to assist you in enrolling in a health plan that corresponds with your and your spouse's eligibility redetermination as of July 9, 2017.

This Decision has no effect on any subsequent eligibility determinations made by NYSOH.

**Effective Date of this Decision:** November 21, 2017

## **How this Decision Affects Your Eligibility**

Your case is being sent back to NYSOH to redetermine your and your spouse's eligibility as of July 9, 2017 based on the information noted above. NYSOH will notify you once this has been done and will assist you in enrolling in a health plan that corresponds to your and your spouse's eligibility as of July 9, 2017.

This Decision has no effect on your current 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)).

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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 9, 2017 eligibility determination is **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine your and your spouse's eligibility as of July 9, 2017 based on a household of four people, for a couple residing in Nassau County, with an annual expected income of \$34,680.00, and to notify you accordingly.

NYSOH is directed to assist you in enrolling in a health plan that corresponds with your and your spouse's eligibility redetermination as of July 9, 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).

This Decision has no effect on any subsequent eligibility determinations made by NYSOH.

Your case is being sent back to NYSOH to redetermine your and your spouse's eligibility as of July 9, 2017 based on the information noted above. NYSOH will notify you once this has been done and will assist you in enrolling in a health plan that corresponds to your and your spouse's eligibility as of July 9, 2017.

This Decision has no effect on your current eligibility.

### **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

**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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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 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 bεtumi 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 דאלמענטשער 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).

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