



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

Notice of Decision

Decision Date: January 31, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022551

[REDACTED]

On November 14, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 19, 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 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.

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DEPARTMENT OF HEALTH
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Decision Date: January 31, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022551



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 your spouse was not eligible to enroll in coverage through NYSOH as of October 1, 2017?

Did NYSOH properly determine that you were eligible to receive up to \$120.00 per month in advance payments of the premium tax credit, effective November 1, 2017?

Procedural History

On June 14, 2017, you submitted an application for financial assistance for your household.

Also on June 14, 2017, you uploaded documentation of your income and your spouse's immigration status.

Additionally, on June 14, 2017, NYSOH reviewed the documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account.

On June 15, 2017, 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 proof of your household income by June 29, 2017 and proof of your spouse's social security number by

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September 12, 2017 in order for your household's eligibility for financial assistance to be determined.

Also on June 15, 2017, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. This notice directed you to submit additional proof of your household's income by June 29, 2017 and proof of your spouse's social security number by September 12, 2017.

On July 26, 2017, you uploaded documentation of your spouse's income.

On July 28, 2017, NYSOH redetermined your household's eligibility for financial assistance.

On July 29, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to receive up to \$576.00 per month in advance payments of the premium tax credit (APTC), effective September 1, 2017. However, your spouse's eligibility was limited because additional information was needed to confirm the information in your application. The notice directed you to submit proof of your spouse's social security number by September 12, 2017.

Also on July 29, 2017, NYSOH issued a notice advising you that the documentation you had submitted regarding your spouse's immigration status was insufficient to resolve the inconsistency in your account and that additional information was required, as NYSOH required your spouse's social security number.

On August 29, 2017, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in a qualified health plan with a plan enrollment start date of October 1, 2017, and that your APTC of \$576.00 would be applied to your premium as of October 1, 2017.

On September 19, 2017, NYSOH issued a discontinuance notice stating that your spouse was no longer eligible for health insurance through NYSOH, effective October 1, 2017. This was because he did not provide his social security number.

Also on September 19, 2017, NYSOH issued a disenrollment notice stating that your spouse's enrollment in his qualified health plan would end, effective October 1, 2017. This was because he was no longer eligible to enroll in health insurance through NYSOH.

Additionally, on September 19, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$120.00 per month in APTC, effective November 1, 2017.

On September 19, 2017, NYSOH also issued a notice of enrollment confirmation stating that you were enrolled in a qualified health plan with a plan enrollment start date of October 1, 2017, and that your APTC of \$120.00 would be applied to your premium as of October 1, 2017.

Furthermore, on September 19, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as your spouse was no longer eligible to enroll in health insurance through NYSOH and the level of financial assistance for which you were eligible for.

On November 14, 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 for fourteen days, to allow you to submit your spouse's most recent immigration documents.

On November 26, 2017, you uploaded form [REDACTED], regarding your spouse's request for a provisional unlawful presence waiver, which notice is dated September 15, 2017 ([REDACTED]). On November 27, 2017, you uploaded your paystub from November 17, 2017 ([REDACTED]). These documents are hereby 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 and your spouse will file your 2017 tax return with a tax filing status of married filing jointly and you will claim no dependents on that tax return.
- 2) You are seeking insurance for yourself and your spouse.
- 3) The application that was submitted on June 14, 2017 listed annual household income of \$20,930.00, consisting of wages you earn from employment.
- 4) The application that was submitted on June 14, 2017 indicates that you are a United States citizen and that your spouse is an immigrant non-citizen who is in the process of applying for a social security number.
- 5) On June 14, 2017, you uploaded four paystubs from [REDACTED]; the first is for pay date May 15, 2017 for a gross pay amount of \$480.00; the second is for pay date May 24, 2017 for a gross pay amount of \$480.00; the third is for pay date May 31, 2017 for a gross pay amount of \$480.00; the fourth is for pay date June 7, 2017 for a gross pay amount of \$384.00.

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- 6) Also on June 14, 2017, you uploaded a form [REDACTED] dated May 27, 2017, regarding your spouse's application for a provisional unlawful presence waiver. This notice indicates that your spouse was to report on June 16, 2017 to have his biometrics captured.
- 7) You previously submitted a letter from the IRS dated March 29, 2016 indicating that your spouse had been assigned an individual taxpayer identification number as well as [REDACTED], dated [REDACTED], stating that your petition for an alien relative had been approved, however, consular action was required in order for your spouse to receive an immigrant visa, furthermore, the approval notice provides that "the approval of this visa petition does not in itself grant any immigration status and does not guarantee that the alien beneficiary will subsequently be found to be eligible for a visa, for admission to the United States, or for an extension, change, or adjustment of status".
- 8) On July 26, 2017, you uploaded a letter from your spouse's employer dated July 24, 2017, stating that as of July 13, 2017 your spouse was no longer employed.
- 9) On July 28, 2017, NYSOH calculated your annual expected income to be \$44,642.00 consisting of \$20,930.00 from [REDACTED] and \$23,712.00 from [REDACTED]. That day, NYSOH submitted an application on your behalf based on this income recalculation.
- 10) On September 18, 2017, NYSOH redetermined your household's eligibility for financial assistance.
- 11) You testified that you are a naturalized United States citizen, and that you became a citizen in January 2015. You have submitted a copy of your certificate of naturalization which indicates that you became a naturalized citizen on [REDACTED], 2015.
- 12) You testified that your spouse entered the United States in 2014 on a tourist visa, which subsequently expired.
- 13) You testified that you and your spouse were married on [REDACTED].
- 14) You testified that your spouse's application for a visa has been approved, he has had his biometrics taken, and he is currently pending an interview before he can receive his visa. You explained that your spouse is not currently eligible for a social security number; however, he does have an individual taxpayer identification number.

- 15) You testified that you are not sure what your annual expected income is. You went on to testify that you have had only one employer in 2017, that you have worked for that employer throughout 2017, and that you are paid on a weekly basis, never earning more than \$600.00 per week.
- 16) You further testified that your spouse has had no income in 2017 and that he last worked in 2016. This is because he is not currently eligible for an employment card.
- 17) Your application indicates, and you confirmed, that you and your spouse will not be claiming any deductions on your 2017 tax return.
- 18) Your application indicates, and you confirmed, that you reside in Queens County.
- 19) On November 26, 2017, you uploaded form [REDACTED], dated [REDACTED]. This notice indicates that your application for a provisional unlawful presence waiver has been granted. However, the notice indicates that the approval will not take effect until you have left the United States, appeared at a U.S. Embassy or Consulate for an interview in connection with your application for an immigrant visa based on an approved immediate relative visa petition, and a U.S. consular officer has determined that you are otherwise eligible for an immigrant visa based on an approved immediate relative petition.
- 20) On November 17, 2017, you uploaded your November 17, 2017 paystub from [REDACTED], which shows gross earnings of \$600.00 and year to date gross earnings of \$12,949.50.

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).

Lawfully present non-citizens who are eligible for Essential Plan include qualified aliens in the five-year ban, certain persons Permanently Residing Under Color of Law (PRUCOL) and temporary non-immigrants meeting residency requirements (45 CFR § 152.2(2) and (4)(i); 16 OHIP/ADM-01 (01/20/2016)). Immigrants who are pregnant or are under 21 years of age, and are in the first five years of their qualified status or are PRUCOL, are eligible for federal financial participation and, therefore, are not eligible for Essential Plan and will remain in Medicaid (*id.*).

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 \$16,020.00 for a two-person household (80 Federal Register 3236, 3237).

Lawfully Present Non-Citizens Transitioned to the Essential Plan

In New York State, lawfully present non-citizens who were formerly eligible for state-funded Medicaid, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of April 1, 2015 (New York's Basic Health Plan Blueprint, p. 19, as approved March 2015; see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>). This category of non-citizens includes lawful permanent residents who are still in their first five years of permanent residency (18 NYCRR § 349.3, 8 USC § 1613).

Medicaid

A person who meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard is eligible for Medicaid benefits (45 CFR § 155.305(c)). One of the non-financial criteria for Medicaid eligibility is the immigration status of the person applying for health insurance. A person is eligible for Medicaid when his or her immigration status is satisfactory and he or she meets all other requirements for 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

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§ 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).

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 requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2016 FPL, which is \$16,020.00 for a two-person household (81 Fed. Reg. 4036.).

For annual household income in the range of at least 250% but less than 300% of the 2016 FPL, the expected contribution is between 8.21% and 9.69% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2016-24).

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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)).

Qualified Health Plan

To enroll in a qualified health plan (QHP) through the Marketplace, an applicant must be a citizen or national of the United States or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

Clarification on PRUCOL Status for Medicaid Eligibility

An alien is considered PRUCOL if they are “residing in the United States with the knowledge and permission or acquiescence of the Federal Immigration Agency and whose departure from the U.S. such agency does not contemplate enforcing. An alien will be considered as one whose departure the Federal Immigration Agency does not contemplate enforcing if, based on all the facts and circumstances in a particular case, it appears that the Federal Immigration Agency is otherwise permitting the alien to reside in the United States indefinitely or it is the policy or practice of such agency not to enforce the departure of aliens in a particular category” (18 NYCRR § 360-3.2(j)(1)(ii)).

The following categories of aliens are considered PRUCOL:

(a) aliens paroled into the United States pursuant to section 212(d)(5) of the Immigration and Nationality Act for less than one year;

(b) aliens residing in the United States pursuant to an order of supervision;

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- (c) deportable aliens residing in the United States pursuant to an indefinite stay of deportation;
- (d) aliens residing in the United States pursuant to an indefinite voluntary departure;
- (e) aliens on whose behalf an immediate relative petition has been approved, and members of their families covered by the petition, who are entitled to voluntary departure and whose departure the Federal Immigration Agency does not contemplate enforcing;
- (f) aliens who have filed an application for adjustment to lawful permanent resident status pursuant to section 245 of the Immigration and Nationality Act, whose application the Federal Immigration Agency has accepted as properly filed or has granted, and whose departure the Federal Immigration Agency does not contemplate enforcing;
- (g) aliens granted stays of deportation by court order, statute or regulation or by individual determination of the Federal Immigration Agency pursuant to section 243 of the Immigration and Nationality Act, whose departure the Federal Immigration Agency does not contemplate enforcing;
- (h) aliens granted voluntary departure status pursuant to section 242(b) of the Immigration and Nationality Act whose departure the Federal Immigration Agency does not contemplate enforcing;
- (i) aliens granted deferred action status;
- (j) aliens who entered and have continuously resided in the United States since before January 1, 1972;
- (k) aliens granted suspension of deportation pursuant to section 244 of the Immigration and Nationality Act whose departure the Federal Immigration Agency does not contemplate enforcing; and
- (l) any other alien living in the United States with the knowledge and permission or acquiescence of the Federal Immigration Agency and whose departure such agency does not contemplate enforcing. (18 NYCRR § 360-3.2(j)(1)(ii)).

Some aliens are PRUCOL because the federal immigration agency has granted them a status. Other aliens are PRUCOL because they have applied for a particular immigration status which has not yet been granted or denied. If an

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alien seeking Temporary Protected Status has an application before USCIS which remains pending the Medicaid worker must find the individual PRUCOL. However, if USCIS has denied the alien's application or otherwise indicates that it is not permitting the alien to reside in the U.S. indefinitely, the Medicaid worker must find that individual is not PRUCOL. In such cases, the alien if otherwise eligible may receive Medicaid only for care and services necessary to treat an emergency medical condition (NYS Department of Health Informational Letter "Clarification of PRUCOL Status for Purposes of Medicaid Eligibility" 07 OHIP/INF-2, pg. 2-3, March 15, 2007).

Immigration Status

Generally, no person except a United States citizen, a naturalized citizen, a qualified alien, and persons permanently residing in the United States under color of law (PRUCOL), is eligible for medical assistance from the state (NY Soc. Serv. Law § 122(1); 18 NYCRR § 360-3.2(j)).

Lawfully present is defined to mean (1) A qualified alien as defined in section 431 of the Personal Responsibility and Work Opportunity Act (PRWORA) (8 United States Code (USC) §1641): or (2) An alien in nonimmigrant status who has not violated the terms of the status under which he or she was admitted or to which he or she has changed after admission (45 CFR § 152.2).

A PRUCOL alien is a person who is residing in the United States with the knowledge and permission or acquiescence of the federal immigration agency and whose departure from the United States such agency does not contemplate enforcing (18 NYCRR §360-3.2(j)).

Legal Analysis

The first issue is whether NYSOH properly determined that your spouse was not eligible to enroll in coverage through NYSOH as of October 1, 2017.

On July 29, 2017, NYSOH issued an eligibility determination notice stating that your spouse was eligible for APTC for a limited time, effective September 1, 2017. Your spouse's eligibility was contingent on providing documentation of his social security number by September 12, 2017.

You did not submit documentation of your spouse's social security number by September 12, 2017.

On September 18, 2017, NYSOH redetermined your household's eligibility for financial assistance.

As a result, NYSOH issued a discontinuance notice stating that your spouse was not qualified to enroll in coverage through NYSOH because he did not submit documentation of his social security number.

In order to be eligible for advance payments of the premium tax credit, a tax filer must meet the requirements to enroll in a qualified health plan. In order to be eligible for cost-sharing reductions, a tax filer must be eligible for advance payments of the premium tax credit.

In order to enroll in a qualified health plan through NYSOH, an applicant must be a citizen or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought.

Generally, to qualify for the Essential Plan through NYSOH, an applicant must have a household modified adjusted gross income that is between 138% and 200% of the FPL for the applicable family size and must be lawfully present and have a valid immigration or citizenship status. Lawfully present immigrants who are eligible for the Essential Plan include qualified aliens in the five-year ban, certain persons Permanently Residing Under Color of Law (PRUCOL) and temporary non-immigrants meeting residency requirements.

Lawfully present is federally defined to mean a qualified alien or an alien in nonimmigrant status who has not violated the terms of the status under which he or she was admitted or to which he or she has changed after admission

The record reflects that your spouse entered the United States on a tourist visa in 2014. After that, his tourist visa expired. You subsequently filed a petition for an alien relative visa for your spouse as well as a petition for an unlawful presence waiver after you were married on [REDACTED]

In a notice dated [REDACTED], your petition for an alien relative regarding your spouse was granted; however, your petition required consular action and did not grant any immigration status or guarantee that your spouse would subsequently be found eligible for a visa. In a notice dated [REDACTED], USCIS informed you that your spouse's petition for a provisional unlawful presence waiver had been granted. However, the notice indicates that the approval will not take effect until such time as your spouse has left the United States, has appeared at a U.S. Embassy or Consulate for an interview in connection with his application for an immigrant visa based on an approved immediate relative visa petition, and a U.S. consular officer has determined that he is otherwise eligible for an immigrant visa based on an approved immediate relative petition. You testified that your spouse has not yet had the necessary interview in conjunction with his petition.

Therefore, although your spouse is in the process of obtaining a visa as the spouse of a U.S. citizen, he is not considered “lawfully present” for purposes of the federal definition.

While individuals who have been determined to be qualified aliens and were formerly eligible for state-funded Medicaid, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of April 1, 2015, this is not the case for persons who are not lawfully present immigrants under the federal definition.

Since your spouse does not meet the federal definition of lawfully present immigrants NYSOH was correct in finding your spouse ineligible for coverage under the Essential Plan, for APTC and cost-sharing reductions, and to enroll in a qualified health plan at full cost.

However, NY State recognizes certain persons as PRUCOL aliens if the person is residing in the United States with the knowledge and permission or acquiescence of the federal immigration agency and whose departure from the United States such agency does not contemplate enforcing. NY State has recognized certain persons within the accepted meaning of “*PRUCOL alien*”; even though the federal government has not. The New York Court of Appeals ruled, in *Aliessa, et al. v. Novello* (96 NY 2d 418 [2001]), that New York must provide state-funded Medicaid to certain individuals who have been excluded from access to the federal Medicaid program because of their current immigration status.

In the present case, an immediate relative petition for your spouse has been approved, and based on the documentation you submitted, it does not appear that the Federal Immigration Agency contemplates enforcing your spouse’s removal. Since your spouse’s current immigration status confers PRUCOL status for individuals seeking NY Medicaid eligibility, we may review whether you met the financial criteria for Medicaid.

You and your spouse expect to file your 2017 tax return as married filing jointly and will claim no dependents on that tax return. Therefore, you and your spouse are in a two-person household.

On July 28, 2017, NYSOH validated the paystubs from your employer and letter from your spouse’s previous employer as satisfactory documentation of your household income and an application for financial assistance was run on your behalf by an NYSOH representative. The NYSOH representative entered into your application an earned income of \$20,930.00 from [REDACTED] and \$23,712.00 from [REDACTED]. This resulted in an annual household income of \$44,642.00.

However, the record reflects that you were only employed by [REDACTED] at that time. The income documentation that was available in your

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NYSOH account at the time of the July 28, 2017 calculation show that your annual expected income was \$23,712.00.

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 (MAGI) that is at or below 138% of the FPL for the applicable family size. On the date of your applications, the relevant FPL was \$16,240.00 for a two-person household. Since \$23,712.00 is 146.01% of the 2017 FPL, NYSOH properly found your spouse to be ineligible for Medicaid on an expected annual income basis.

Therefore, the September 19, 2017 eligibility determination notice properly found your spouse to be ineligible for the Essential Plan, for APTC or cost-sharing reductions, or to enroll in a qualified health plan at full cost, based on your spouse not being lawfully present. Your spouse's ineligibility for Medicaid is properly based on your annual household income being over the limit for that program.

The second issue is whether NYSOH properly determined that you were eligible to receive up to \$120.00 per month in advance payments of the premium tax credit, effective November 1, 2017.

The application submitted on your behalf on September 18, 2017 relied upon the erroneous income entered by an NYSOH representative in the July 28, 2017 application.

As the September 18, 2017 application included income from two employers, when the record reflects that you only had one employer, the September 18, 2017 application should have only included income from [REDACTED]

Since the September 19, 2017 eligibility determination is not supported by the documentation you provided as well as your credible testimony during the hearing, it is RESCINDED insofar as it found you eligible for APTC of up to \$120.00 per month, effective November 1, 2017.

Your case is RETURNED to NYSOH to redetermine your eligibility as of September 19, 2017 based on a household of two residing in Queens County with an annual expected income of \$23,712.00.

Decision

The September 19, 2017 discontinuance notice is AFFIRMED insofar as it found your spouse ineligible to enroll in health insurance through NYSOH.

The September 19, 2017 eligibility determination notice is RESCINDED insofar as it found you eligible for up to \$120.00 per month in APTC, effective November 1, 2017.

Your case is RETURNED to NYSOH to redetermine your eligibility as of September 19, 2017 based on a household of two residing in Queens County with an annual expected income of \$23,712.00.

Effective Date of this Decision: January 31, 2018

How this Decision Affects Your Eligibility

Your spouse is not eligible for the Essential Plan, APTC or cost-sharing reductions, or to enroll in a full cost qualified health plan through NYSOH because he is not lawfully present.

Although your spouse qualified as a PRUCOL alien for state-based Medicaid, he is not eligible for Medicaid at this time because your household income is over the maximum allowable income limit.

This is not a final determination of your eligibility.

Your case is being sent back to NYSOH to redetermine your eligibility as of September 19, 2017 based on a household of two residing in Queens County with an annual expected income of \$23,712.00.

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 September 19, 2017 eligibility determination notice is AFFIRMED insofar as it found your spouse ineligible to enroll in health insurance through NYSOH.

reductions, or to enroll in a full cost qualified health plan through NYSOH because he is not lawfully present.

Although your spouse qualified as a PRUCOL alien for state-based Medicaid, he is not eligible for Medicaid at this time because your household income is over the maximum allowable income limit.

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).

The September 19, 2017 eligibility determination notice is RESCINDED insofar as it found you eligible for up to \$120.00 per month in APTC, effective November 1, 2017.

Your case is RETURNED to NYSOH to redetermine your eligibility as of September 19, 2017 based on a household of two residing in Queens County with an annual expected income of \$23,712.00.

Your spouse is not eligible for the Essential Plan, APTC or cost-sharing

This is not a final determination of your eligibility.

Your case is being sent back to NYSOH to redetermine your eligibility as of September 19, 2017 based on a household of two residing in Queens County with an annual expected income of \$23,712.00.

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।

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).

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 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.

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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