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

Notice of Decision

Decision Date: November 27, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000022623

[redacted]

Dear [redacted],

On November 21, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 16, 2017 disenrollment and September 30, 2017 eligibility determination notices.

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.

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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: November 27, 2017

NY State of Health Account ID: [redacted]
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[redacted]

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 no longer eligible for the Essential Plan and end your coverage as of September 30, 2017?
>
> Did NYSOH properly determine that you were ineligible for financial assistance as of September 30, 2017?

Procedural History

On June 12, 2017, you submitted an application for financial assistance through NYSOH.

On June 13, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan for a limited time, effective July 1, 2017. The notice directed you to submit additional income documentation to confirm your eligibility by September 10, 2017.

On June 13, 2017, NYSOH issued a plan enrollment notice confirming that, as of June 12, 2017, you were enrolled in an Essential Plan with an enrollment start date of July 1, 2017. The notice directed you to submit additional income documentation to confirm your eligibility by September 10, 2017.

On September 15, 2017, your NYSOH account was systemically updated.

On September 16, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost, effective as of October 1, 2017.

Also on September 16, 2017, NYSOH issued a disenrollment notice stating that your Essential Plan coverage would end September 30, 2017, because you were no longer eligible to remain enrolled in the Essential Plan.

On September 20, 2017, your NYSOH account was updated.

Also on September 20, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as coverage in your Essential Plan was discontinued and you were redetermined ineligible for financial assistance.

On September 30, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost, effective November 1, 2017. The notice further stated that you were ineligible for financial assistance because your income exceeded the maximum income limit for the insurance affordability programs.

On October 1, 2017, NYSOH issued a notice stating that you were eligible for the Essential Plan with a $20.00 monthly premium for a limited time because you had been granted Aid to Continue until a decision was made on your appeal.

On November 21, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

1) According to your NYSOH account, you are applying for health insurance for yourself.

2) According to your NYSOH account, you were enrolled in an Essential Plan, effective July 1, 2017, conditioned upon you providing proof of income so NYSOH could confirm your eligibility for that program.

3) You testified that you do not recall receiving any notice from NYSOH requesting additional documentation.

4) According to your NYSOH account and testimony, you receive notices from NYSOH by U.S. mail.

5) According to your NYSOH account, the June 13, 2017 notices issued by NYSOH were not returned as undeliverable.

6) According to your NYSOH account, no income documentation was received by NYSOH by the deadline of September 10, 2017.

7) You testified that you expect to file a 2017 federal income tax return with the tax status of single and do not expect to claim any dependents on that return.

8) According to your NYSOH account and testimony, you were issued $42,500.00 from your former employer, [redacted], in 2017.

9) You testified that you began receiving unemployment insurance benefits (UIB) on or about June 28, 2017, and have been consistently receiving $435.00 per week.

10) According to your NYSOH account and testimony, you do not expect to claim any deductions on your 2017 federal income tax return.

11) You testified that you received four UIB installments of $435.00 during the month of September 2017.

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

Applicable Law and Regulations

Essential Plan - Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow the NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i)). 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 §600.345 (a)) See also New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; *see* https://www.medicaid.gov/basic-health-program/basic-health-program.html).

NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence (45 CFR §155.315(f)(2). If NYSOH remains unable to verify the information required to determine the applicant's eligibility after the 90 day period

ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

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 finds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)).

Household Composition

For APTC and CSR, the household size equals the number of individuals for whom the taxpayers are allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

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)).

In an analysis of APTC 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).

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 Fed. Reg. 4036).

Medicaid:

Medicaid can be provided through the Marketplace 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 that is at or below 138% of the federal poverty for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. 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). For the month of September 2017, that was the 2017 FPL, which was $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 by the US Department of Health and Human Services, March 19, 2014).

Legal Analysis

The first issue is whether NYSOH properly determined you to be ineligible for the Essential Plan and ended your coverage as of September 30, 2017.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to their household’s projected annual income. 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 a period of 90 days from the date the notice is sent to resolve the inconsistency.

NYSOH issued notices on June 13, 2017, stating that you were eligible to enroll in the Essential Plan for a limited time. You were instructed to provide income documentation by September 10, 2017, to confirm your eligibility to enroll in the Essential Plan. No documentation was received by the September 10, 2017, deadline.

You testified that you do not recall receiving any notice from NYSOH requesting additional documentation. The record reflects that you elected to receive notifications by regular mail.

There is no evidence in the record that the June 13, 2017 notices were returned as undeliverable. Therefore, NYSOH properly notified you of the inconsistency in your account, and that you needed to provide the documentation by September 10, 2017. Since no income documents were provided by the deadline, NYSOH properly determined that you were ineligible for the Essential Plan and ended your coverage as of September 30, 2017.

Therefore, the September 16, 2017 disenrollment notice is AFFIRMED.

The second issue under review is whether NYSOH properly determined that you were ineligible for financial assistance as of September 30, 2017.

On September 20, 2017, you submitted an application for financial assistance. In that application, you attested that you had received $42,500.00 from your former employer and expected to receive $11,180.00 in UIB in 2017. Based on your attestation, your expected 2017 annual household income was calculated to be $53,680.00. The September 30, 2017 eligibility determination relied upon that information.

For an individual who expects to file a federal income tax return, the household equals the taxpayers and the number of individuals for whom the taxpayer is claiming as a dependent.

You attested that you expect to file a 2017 federal income tax return, with the tax status of single and did not expect to claim any dependents on that return. Therefore, you were in a one-person household for purposes of this analysis.

Individuals may be eligible for APTC provided they meet the non-financial requirements and have a household modified adjusted gross income that is below 400% 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.

An annual income of $53,680.00 is 451.85% of the 2016 FPL for a one-person household. Therefore, NYSOH correctly determined you to be ineligible to receive APTC.

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 $11,880.00 for a one-person household. Since an annual household income of $53,680.00 is 451.85% of the 2016 FPL, NYSOH properly found you to be ineligible for the Essential Plan.

Medicaid can be provided through the 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.

The 2017 FPL was $12,060.00 for a one-person household. Financial eligibility for Medicaid applicants who are not currently receiving Medicaid benefits may be based on current monthly household income and family size. For an adult to be eligible for Medicaid in a household of one, their monthly must not exceed $1,387.00.

The record supports that you received four UIB installments of $435.00 in September 2017. Therefore, your September 2017 income of $1,740.00 ($435.00 X 4 weeks), exceeded the monthly income threshold. Therefore, NYSOH properly found you to be ineligible for Medicaid.

Based on the foregoing analysis, your yearly and monthly incomes exceeded the maximum income limits to be determined eligible for financial assistance. Therefore, the September 30, 2017 eligibility determination notice is AFFIRMED.

Decision

The September 16, 2017 disenrollment notice is AFFIRMED.

The September 30, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: November 27, 2017

How this Decision Affects Your Eligibility

Your Essential Plan coverage properly ended effective September 30, 2017.

You were ineligible to receive any financial assistance as of September 30, 2017.

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

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

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).

Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The September 16, 2017 disenrollment notice is AFFIRMED.

The September 30, 2017 eligibility determination notice is AFFIRMED.

Your Essential Plan coverage properly ended effective September 30, 2017.

You were ineligible to receive any financial assistance as of September 30, 2017.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[redacted]

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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 महत्त्वपूर्ण 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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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