



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

Notice of Decision

Decision Date: January 24, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023128

[REDACTED]

[REDACTED]

On December 8, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health’s October 4, 2017 preliminary eligibility finding and October 18, 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023128



Issues

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

Did NY State of Health (NYSOH) properly find on October 4, 2017 that you and your spouse were eligible to receive up to \$547.00 per month in advance payments of the premium tax credit (APTC), effective November 1, 2017?

Did NYSOH properly determine that you and your spouse were eligible to receive up to \$575.00 per month in APTC, effective December 1, 2017?

Did NYSOH properly determine that you and your spouse were eligible for cost-sharing reductions, effective December 1, 2017?

Did NYSOH properly determine you and your spouse were not eligible for the Essential Plan, effective December 1, 2017?

Did NYSOH properly determine that you and your spouse were not eligible for Medicaid, effective December 1, 2017?

Procedural History

On May 2, 2017, NYSOH issued an eligibility determination notice stating, in part, that you and your spouse were eligible to receive up to \$602.00 in APTC and cost-sharing reductions, effective June 1, 2017. You and your spouse were subsequently enrolled as a couple with platinum-level qualified health plan (QHP) with an enrollment start date of June 1, 2017.

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On September 28, 2017 you submitted to NYSOH an updated application for financial assistance for your family.

Also on September 28, 2017, you uploaded two earning statements for your spouse. The first was dated August 15, 2017 with gross earnings of \$1,833.33, and the second was dated August 31, 2017 with gross earnings of \$1,833.33.

On September 29, 2017, NYSOH issued an enrollment notice confirming your enrollment in Essential Plan 1 effective November 1, 2017.

Also on September 29, 2017 NYSOH issued a notice informing you that additional information was needed in the form of household income documentation to confirm your family's eligibility. This information was required by October 13, 2017 to confirm your family members eligibility and household income was required by December 27, 2017 to confirm your eligibility.

Also on September 29, 2017, you uploaded income documents to your NYSOH account.

On September 30, 2017, NYSOH issued a disenrollment notice stating that your and your spouse's coverage in your platinum-level QHP would end October 31, 2017.

On October 1, 2017, NYSOH issued an eligibility determination notice, based on the September 28, 2017 updated application, stating that you were eligible for the Essential Plan, for a limited period of time, effective November 1, 2017. This notice also stated that you no longer qualified for APTC with cost-sharing reductions as of October 31, 2017. The notice stated that additional proof of household income information was required by October 13, 2017 to confirm your family members eligibility, but that you had until December 27, 2017 to confirm your own eligibility.

On October 4, 2017, you submitted five different applications for health insurance for your family. Those applications listed differing amounts of income for you and your spouse. The first application resulted in a preliminary eligibility finding that you and your spouse were eligible for APTC of \$547.00 per month and cost-sharing reductions effective November 1, 2017. The last preliminary eligibility finding prepared that day stated the information you provided did not match information NYSOH obtained from state and federal data sources. NYSOH could not make an eligibility determination until you provided additional information regarding your household income, or NYSOH was able to confirm the income in your application.

Also on October 4, 2017 you spoke to NYSOH's Account Review Unit and appealed the first preliminary eligibility finding of that day, insofar as it found that

you and your spouse were eligible for less APTC than you had been previously receiving; you stated you could not afford to pay for health insurance.

On October 5, 2017, NYSOH issued a notice, based on the last application submitted on October 4, 2017, stating that your application had been reviewed, but the income information in the application did not match information NYSOH received from state and federal data sources. Additional household income information was required by October 19, 2017 to confirm your family members eligibility. A list of acceptable documents was provided at the end of the notice.

Also on October 5, 2017, NYSOH issued a disenrollment notice stating that your enrollment in the Essential Plan 1 would end November 1, 2017. This was because you were no longer eligible to enroll in the Essential Plan.

On October 6, 2017, NYSOH issued a notice stating that the documentation you submitted had been reviewed but did not confirm the information in your application. You were directed to submit additional proof of household income by November 3, 2017.

On October 9, 2017 you submitted an updated application for financial assistance for your family. On that date, you uploaded additional earning documents.

On October 10, 2017, NYSOH reviewed the documentation you submitted and your household income was adjusted to \$65,338.00 and an application for financial assistance was submitted on your behalf for your family.

On October 11, 2017, NYSOH issued an eligibility redetermination notice stating in part, that you and your spouse were eligible to receive up to \$436.00 per month in APTC. This eligibility was effective November 1, 2017.

On October 12, 2017, you submitted an updated application for financial assistance and changed your household income.

On October 13, 2017, NYSOH issued an eligibility redetermination notice, based on the October 12, 2017 updated application, stating in part, that you and your spouse were eligible to receive up to \$586.00 per month in APTC and, if you selected a silver-level QHP, for cost-sharing reductions. This eligibility was effective November 1, 2017.

Also on October 13, 2017, you submitted to NYSOH four updated applications for financial assistance for your family with different income amounts listed for you and your spouse. Also on this date you uploaded to your NYSOH account additional income documentation.

On October 16, 2017, NYSOH issued an eligibility determination notice, based on the last application you submitted on October 13, 2017, stating in part, that you and your spouse were eligible to enroll in the Essential Plan with a \$20.00 monthly premium each, for a limited time, effective November 1, 2017. The notice stated that you needed to submit proof of household income to confirm the eligibility for you and your spouse by January 11, 2018.

Also on October 16, 2017, NYSOH issued a notice confirming in part, your and your spouse's enrollment in Essential Plan 1 Plus Vision and Dental with a monthly premium responsibility of \$47.60 each, effective November 1, 2017.

On October 17, 2017, NYSOH reviewed and validated the documentation you submitted and your household income was adjusted to \$55,030.83. NYSOH submitted an application for financial assistance on your behalf for your family.

On October 18, 2017, NYSOH issued an eligibility determination notice, based on the updated income information of October 17, 2017, stating in part, that you and your spouse were eligible to receive up to \$575.00 per month in APTC and, if you selected a silver-level QHP, for cost-sharing reductions. This eligibility was effective December 1, 2017.

Also on October 18, 2017, NYSOH issued a disenrollment notice stating that your and your spouse's coverage in Essential Plan 1 Plus Vision and Dental would end on November 30, 2017. This was because you and your spouse were no longer eligible to enroll in the Essential Plan.

On November 14, 2017, NYSOH issued an enrollment notice confirming your November 13, 2017 selection for you and your spouse, of a platinum-level QHP with a monthly premium of \$705.35 after application of APTC, with the plan and APTC starting on December 1, 2017.

On December 8, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing you stated that you wanted to amend your appeal to include the October 18, 2017 eligibility determination notice that found you and your spouse eligible for \$575.00 in APTC and cost-sharing reductions effective December 1, 2017. Your request was granted and 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) You testified that you are appealing you and your spouse's eligibility.

- 2) According to your NYSOH account and your testimony, you file your taxes as married filing jointly and claim two dependents.
- 3) According to your NYSOH account you do not take any deductions on your taxes.
- 4) According to your NYSOH account and the notices issued by NYSOH, you and your spouse were eligible for \$602.00 in APTC and cost-sharing reductions effective June 1, 2017. You and your spouse were enrolled in a silver-level QHP from June 1, 2017 through October 31, 2017.
- 5) According to your testimony, you were laid off from your employment on June 24, 2017.
- 6) According to the earning statement dated June 29, 2017 from your previous employer, your last day of work was June 24, 2017 and your year to date earnings was \$16,125.00 ([REDACTED]).
- 7) According to your spouse's earning statements she is paid twice a month. The August 15, 2017 and August 31, 2017 earning statements indicate your spouse was paid \$1,833.33 each pay period. The August 31, 2017 statement indicates her year to date earnings at that point was \$29,269.83 [REDACTED] [REDACTED] .
- 8) According to your spouse's earning statements dated 9/15/2017 and 9/30/2017 she was paid \$2,083.00 for each pay period ([REDACTED] [REDACTED]).
- 9) On September 29, 2017, you uploaded to your NYSOH account a NYS Department of Labor Unemployment Insurance Monetary Benefit Determination dated September 28, 2017 indicating your weekly benefit rate starting September 25, 2017 would be \$430.00 per week ([REDACTED] [REDACTED]).
- 10) On October 4, 2017, you submitted an appeal on a preliminary eligibility finding that you and your spouse were eligible for APTC of \$547.00 per month and cost-sharing reductions effective November 1, 2017.
- 11) NYSOH did not issue an eligibility determination notice on any of your five applications for financial assistance you submitted on October 4, 2017.
- 12) NYSOH issued an eligibility determination notice based on your updated October 13, 2017 financial assistance application and you and your spouse were found eligible for the Essential Plan effective November 1, 2017. You and your spouse were enrolled in an Essential Plan for the period of November 1, 2017 to November 30, 2017.

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- 13) According to your NYSOH account, on October 17, 2017 NYSOH reviewed and validated the income documentation you submitted and your household income was adjusted to \$55,030.83. NYSOH submitted an application for financial assistance for your family based on this updated household income.
- 14) According to your NYSOH account, based on the updated household income of \$55,030.83, NYSOH found you and your spouse eligible for \$575.00 in APTC effective December 1, 2017.
- 15) According to your NYSOH account, on November 13, 2017 you selected a platinum-level QHP for you and your spouse with a premium for the month of December 2017 of \$705.35 after the application of APTC, with the plan and APTC application start date of December 1, 2017.
- 16) You testified that you did not pay the December 2017 premium for the platinum-level QHP you selected. You testified that you could not afford the premium even with APTC applied, because of the high cost of living in New York City.
- 17) According to your NYSOH account you reside in New York County, New York.
- 18) You testified that the national federal poverty level should not be used because the expenses of living in New York City, such as rent, utilities, food and transportation are much higher and this should be taken into account in your financial application.

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

Applicable Law and Regulations

Appealable Issues

An applicant has the right to appeal to the Appeals Unit of NYSOH: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, and (4) a failure by NYSOH to provide timely notice of an eligibility determination (45 CFR § 155.505).

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 (*id.*).

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of APTC for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

Advance Payments of 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), IRS Revenue Procedure (RP) 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 \$24,300.00 for a four-person household (81 Federal Register 4036.).

For annual household income in the range of at least 200% but less than 250% of the 2016 FPL, the expected contribution is between 6.43% and 8.21% of the household income (26 CFR § 1.36B-3, IRS RP 2016-24).

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 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)).

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.).

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)).

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 \$24,600.00 for a four-person household (82 Fed. Reg. 8831).

Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the

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first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The first issue under review is whether NYSOH properly found on October 4, 2017 that you and your spouse were eligible to receive up to \$547.00 per month in APTC, effective November 1, 2017.

According to your NYSOH account, on October 4, 2017 you submitted five updated applications for financial assistance with differing amounts of income for you and your spouse. The first application resulted in a preliminary eligibility finding that you and your spouse were eligible for APTC of \$547.00 per month and cost-sharing reductions effective November 1, 2017. The last preliminary eligibility finding issued that day stated the information you provided did not match information NYSOH obtained from state and federal data sources. NYSOH could not make an eligibility determination until you provided or NYSOH was able to confirm additional information on your household income.

On October 4, 2017 you contacted NYSOH's Account Review Unit and appealed the first preliminary eligibility finding of that day, insofar as it found that you and your spouse were eligible for less APTC than you had been previously receiving. You stated you could not afford to pay for health insurance even with APTC.

An applicant has the right to appeal to NYSOH's Appeals Unit an eligibility determination or redetermination made by NYSOH, a failure by NYSOH to provide timely notice of an eligibility determination, and a denial of a request for a special enrollment period by NYSOH.

You appealed the preliminary eligibility finding that you and your spouse were eligible for \$547.00 in APTC. However, you submitted four financial assistance applications after that initial application on October 4, 2017. In response to the last application, NYSOH advised you it could not determine your eligibility because your last listed household income did not match information obtained from state and federal data sources. A final determination on that last application was then held pending your submission of valid proof of household income. Therefore, there was no eligibility determination notice issued in regard to your October 4, 2017 applications. As such, there is no eligibility determination that the Appeals Unit is authorized to address.

Therefore, your appeal of the preliminary eligibility finding of October 4, 2017 is **DISMISSED**.

The second issue is whether NYSOH properly determined that you and your spouse were eligible to receive up to \$575.00 per month in APTC, effective December 1, 2017.

During the hearing, you testified that it was inappropriate to apply a national federal poverty level when calculating your family's financial assistance. You testified that because of the high cost of living in New York City, that expenses such as rent, utilities, food and transportation should be considered.

However, because the Internal Revenue Service rules do not allow living expenses such as rent, utilities, food and transportation to be deducted from the calculation of your adjusted gross income, they cannot be deducted when NYSOH computes your modified adjusted gross income for APTC purposes.

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

The record reflects that the last earning statement you received is dated June 29, 2017 and your last day of employment was June 24, 2017. Your year to date gross earnings received from that employment was \$16,125.00. The record reflects that your spouse is regularly employed and is paid two times a month. Your spouse's earning statements for August 15, 2017 and August 31, 2017 indicate she was receiving gross pay of \$1,833.33 each pay period. Her year to date earnings as of the August 31, 2017 statement was \$29,269.83. The record reflects that her next two earnings statements of September 15, 2017 and September 30, 2017 show an increase in pay to \$2,083.00 per pay period, which equates to a raise of \$250.00 per pay period for the remainder of 2017.

The record reflects that you applied for unemployment insurance benefits and would be entitled to collect \$430.00 per week starting September 25, 2017. However, you have not submitted a history of the payments you received in unemployment benefits, so your annual household income cannot be determined.

The record reflects that you received \$16,125.00 in wages in 2017. Based on the evidence in the record, your spouse earned \$29,269.83 up to the end of August 2017. Starting in September 2017 she was earning \$2,083.00 per pay period or \$4,166.00 per month, or a total of \$16,664.00 from September 2017 through the end of 2017 ($\$4,166.00 \times 4$ months). As such, your spouse's expected annual income for 2017 is \$45,933.83 ($\$29,269.33 + \$16,664.00$). Therefore, based on the available evidence your expected household income for 2017 is at least \$62,058.83 ($\$16,125.00 + \$45,933.83$). This figure would be higher if your unemployment benefits were included.

While the above analysis indicates a higher expected annual household income than the \$55,030.83 calculated by NYSOH on October 17, 2017, and did not include your unemployment benefits, there is sufficient evidence in the record to allow the NYSOH calculated household income of \$55,030.83 to stand for purposes of this review of your family's eligibility for financial assistance as of October 17, 2017.

As noted above, living expenses such as rent, utilities, food and transportation cannot be deducted from the calculation of your adjusted gross income. Therefore, NYSOH was correct in determining your household income to be \$55,030.83, based on the information you provided in the October 17, 2017 eligibility determination.

An annual income of \$55,030.83 is 226.46% of the 2016 FPL for a four-person household. At 226.46% of the FPL, the expected contribution to the cost of the health insurance premium is 7.37% of income, or \$337.97 per month.

You and your spouse reside in New York County, where the second lowest cost silver plan available for a couple is individual through NYSOH costs \$912.91 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through NYSOH for a couple in your county (\$912.91 per month) minus your expected contribution (\$337.97 per month), which equals \$574.94 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you and your spouse to be eligible for up to \$575.00 per month in APTC effective December 1, 2017.

The third issue is whether you and your spouse were properly found eligible for cost-sharing reductions. Cost-sharing reductions are available to persons who have a household income no greater than 250% of the applicable FPL. Since a household income of \$55,030.00 is 226.46% of the applicable FPL, NYSOH correctly found you and your spouse to be eligible for cost-sharing reductions.

The fourth issue under review is whether NYSOH properly determined that you and your spouse were ineligible for the Essential Plan, effective December 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 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 \$55,030.00 is 226.46% of the 2016 FPL, NYSOH properly found you and your spouse ineligible for the Essential Plan.

The fifth issue is whether NYSOH properly determined that you and your spouse were ineligible 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 updated October 17, 2017 application, the relevant FPL was \$24,600.00 for a four-person household. Since \$55,030.00 is 223.70% of the 2017 FPL, NYSOH properly found you and your spouse to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Because the October 18, 2017 eligibility determination notice properly stated that, based on the information you provided, you and your spouse were eligible for up to \$575.00 per month in APTC, eligible for cost-sharing reductions, ineligible for the Essential Plan, and ineligible for Medicaid, it is correct based on the information you supplied and is AFFIRMED.

The record shows that on November 13, 2017 submitted a request to enroll you and your spouse in a platinum-level QHP. On November 14, 2017 NYSOH issued an enrollment confirmation notice stating in part, that you and your spouse were enrolled in a platinum-level QHP with a premium for December 2017 of \$705.35 after the application of APTC, with a plan and application of APTC start date of December 1, 2017.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month. Additionally, the date on which a QHP can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the first day to and including fifteenth day of a month goes into effect on the first day of the following month.

Because you selected your and your spouse's platinum-level QHP on November 13, 2017, it properly took effect the first day of the month following November 2017; that is, on December 1, 2017.

Therefore, NYSOH's November 14, 2017 enrollment confirmation notice is AFFIRMED because it properly began your and your spouse's enrollment in platinum-level QHP as well as your APTC on December 1, 2017.

This decision does not affect any subsequent eligibility determination or enrollment notices issued by NSYOH for you and your spouse.

Decision

Your appeal of the preliminary eligibility finding of October 4, 2017 is DISMISSED as a non-appealable issue.

The October 18, 2017 eligibility determination notice is AFFIRMED.

The November 14, 2017 enrollment confirmation notice is AFFIRMED.

This decision does not affect any subsequent eligibility determination or enrollment notices issued by NSYOH for you and your spouse.

Effective Date of this Decision: January 24, 2018

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

Your and your spouse's enrollment in your platinum-level QHP, and your eligibility for APTC properly began as of December 1, 2017.

This decision does not affect any subsequent eligibility determination or enrollment notices issued by NSYOH for you and your spouse.

IMPORTANT: A person who received less tax credit than the maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than the maximum entitlement, based on gross income, will owe the excess as an additional income tax liability.

If You Disagree with this Decision (Appeal Rights)

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your case was decided, the 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
Albany, NY 12211
- By fax: 1-855-900-5557

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).

Summary

Your appeal of the preliminary eligibility finding of October 4, 2017 is **DISMISSED** as a non-appealable issue.

The October 18, 2017 eligibility determination notice is **AFFIRMED**.

The November 14, 2017 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your eligibility.

Your and your spouse's enrollment in your platinum-level QHP, and your eligibility for APTC properly began as of December 1, 2017.

This decision does not affect any subsequent eligibility determination or enrollment notices issued by NSYOH for you and your spouse.

IMPORTANT: A person who received less tax credit than the maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than the maximum entitlement, based on gross income, will owe the excess as an additional income tax liability.

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।

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Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&etumi 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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