



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

### Notice of Decision

Decision Date: January 8, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023534

[REDACTED]

On December 15, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health’s September 16, 2017 eligibility determination, September 16, 2016 plan disenrollment, and October 20, 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 NY State of Health Account ID at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: January 8, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023534

[REDACTED]

## Issues

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

Did NY State of Health properly determine that you were no longer eligible for Medicaid, effective September 30, 2017?

Did NY State of Health properly determine that your spouse was eligible for the Essential Plan with a \$20.00 monthly premium?

Did NY State of Health properly determine that your spouse was not eligible for Medicaid?

## Procedural History

On July 2, 2017, NY State of Health (NYSOH) issued an eligibility determination notice stating that you were eligible for Medicaid, effective August 1, 2017.

On July 17, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a Medicaid Managed Care plan as of October 1, 2015.

On September 15, 2017, NYSOH received your updated application for financial assistance with health insurance; which included an increased household annual expected income and indicated your spouse needed health insurance.

On September 16, 2017, NYSOH issued an eligibility determination notice stating, in part, that you were eligible for the Essential Plan with a \$20.00 monthly

premium, effective October 1, 2017. This notice further stated that you were no longer eligible for Medicaid, effective September 30, 2017.

Also on September 16, 2017, NYSOH issued a plan disenrollment notice confirming coverage in your Medicaid Managed Care plan would end, effective September 30, 2017.

On October 19, 2017, NYSOH received your updated application for financial assistance with health insurance. That day, a preliminary eligibility determination was prepared finding you and your spouse eligible to enroll in Essential Plans with \$20.00 monthly premiums each, effective December 1, 2017.

Also on October 19, 2017, you spoke to NYSOH's Account Review Unit and appealed the preliminary eligibility determination insofar as you and your spouse were not found eligible for Medicaid.

On October 20, 2017, NYSOH issued an eligibility determination notice, based on the October 19, 2017 updated application, stating that you and your spouse were eligible to enroll in Essential Plans with \$20.00 monthly premiums, effective December 1, 2017. That notice also stated that you both were not eligible for Medicaid because your household income was over the allowable income limits for that program.

Also on October 20, 2017, NYSOH issued a plan enrollment notice confirming your and your spouse's enrollment in Essential Plans with \$20.00 monthly premiums each, effective December 1, 2017.

On December 15, 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 until January 2, 2018 to allow you time to submit supporting documentation.

As of January 2, 2018, the Appeals Unit did not receive any documents from you and none were viewable in your NYSOH account. Therefore, the record was closed that same day and this decision is based on the record as developed at the time of the hearing.

## **Findings of Fact**

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

- 1) According to your NYSOH account, on July 2, 2017, NYSOH issued a renewal notice stating that, based on state and federal data sources, you were found eligible for Medicaid, effective September 1, 2017.

- 2) The July 2, 2017 renewal notice indicated that, if anything had changed in your life that may affect your eligibility, to update your NYSOH account between July 16, 2017 and August 15, 2017.
- 3) According to your NYSOH account, on September 15, 2017, NYSOH received your updated application for financial assistance, which stated that your spouse needed health insurance through NYSOH and included an increase expected annual household income.
- 4) According to your NYSOH account, your household expected annual income increased from \$22,198.16 listed in your July 1, 2017 application to \$26,606.00 listed in your September 15, 2017 application.
- 5) You testified that you are seeking health insurance for you and your spouse.
- 6) You testified that you and your spouse expect to file your 2017 taxes with a tax filing status of married filing jointly. You will claim no dependents on that tax return.
- 7) The application that was submitted on October 19, 2017 listed an annual household income of \$26,606.00, consisting of income your spouse earns from her employment. You testified that this amount was correct.
- 8) You testified that you do not have any income because you are a full-time student.
- 9) Your application states, and you testified, that you plan on taking a college tuition and fee deduction of \$1,500.00 on your 2017 tax return.
- 10) Your October 19, 2017 application listed an annual expected household income of \$25,106.00, which includes your spouse's income less your college tuition and fee deduction.

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-

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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 \$16,020.00 for a two-person household (81 Federal Register 4036.).

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

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 \$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).

### Medicaid Continuous Coverage

Generally, most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage, even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (NY Social Services Law § 366(4)(c)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

### Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross federal taxable income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that you were no longer eligible for Medicaid, effective September 30, 2017.

On July 2, 2017, NYSOH issued an eligibility determination notice stating that it was time for you to renew your NYSOH coverage. This notice stated that if the

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information in your application was still accurate, that NYSOH had reenrolled you into your Medicaid Managed Care plan, effective September 1, 2017. This notice also directed you to update your NYSOH account between July 16, 2017 and August 15, 2017 if any information had changed which may affect your eligibility.

The record indicates that, on September 15, 2017, NYSOH received an updated application for financial assistance with health insurance, which included an updated expected annual household income and indicated your spouse needed health insurance coverage through NYSOH.

Subsequently, on September 16, 2017, NYSOH issued an eligibility determination stating, in part, that you were newly eligible for the Essential Plan with a \$20.00 monthly premium, effective October 1, 2017. This notice also stated, in part, that you were no longer eligible for Medicaid, effective September 30, 2017. NYSOH also issued a plan disenrollment notice on September 16, 2017 which stated that your Medicaid Managed Plan coverage was to end, effective September 30, 2017.

Generally, once individuals are determined fully eligible for Medicaid, they are guaranteed 12 months of Medicaid coverage, even if the applicant loses Medicaid eligibility because of any changes or updates they made to their NYSOH account. This twelve-month period is based on the effective date of the Medicaid eligibility determination.

Credible evidence confirms that you were found eligible for Medicaid, effective September 1, 2017, and that even though your estimated annual income increased when you modified your application on September 15, 2017, you should have remained in your Medicaid coverage for the remainder of your 12-month eligibility period; which is until August 30, 2018. As such, NYSOH erred in disenrolling you from your Medicaid Managed Care plan, effective September 30, 2017.

Therefore, the September 16, 2017 eligibility determination and plan disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your coverage in your Medicaid Managed Care plan as of October 1, 2017.

The second issue under review is whether NYSOH properly determined that your spouse was eligible to enroll in an Essential Plan with a \$20.00 monthly premium, effective December 1, 2017.

The application that was submitted on October 19, 2017 listed an annual household income of \$25,106.00 and the eligibility determination relied upon that information.

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Your spouse is in a two-person household. This is because you testified that you and your spouse expect to file your 2017 income taxes as married filing jointly and will claim no dependents on that tax return.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$16,020.00 for a two-person household. Since an annual household income of \$25,106.00 is 157.05% of the 2016 FPL, NYSOH properly found your spouse to be eligible for the Essential Plan.

The third issue under review is whether NYSOH properly determined that your spouse was 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 application, the relevant FPL was \$16,240.00 for a two-person household. Since \$25,160.00 is 154.72% of the 2017 FPL, NYSOH properly found you and your spouse to be ineligible for Medicaid based on an expected annual income, using the information provided in your application.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,868.00 per month.

The Hearing Officer left the record open until January 2, 2018 to allow you time to submit income documentation for the month of October 2017. However, by the end of the day on January 2, 2018, there were no income documents received by NYSOH's Appeals Unit, nor were there any income documents viewable on your NYSOH account. Since there is no other reliable income documentation indicating what your spouse's income was for the month of October 2017, NYSOH's Appeals Unit must rely upon the system calculated income amount for this decision.

The application that was submitted on October 19, 2017 listed an annual expected household income of \$25,106.00 and the eligibility determination relied upon that information. You testified that the income amount provided in your October 19, 2017 application was correct. Therefore, using the annual expected income, your spouse's monthly household income for October 2017 was calculated to be \$2,092.17. As a result, your spouse does not qualify for Medicaid based on monthly income as of the date of the October 19, 2017 application.

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Since the October 20, 2017 eligibility determination properly stated, in part, that, based on the information you provided, your spouse was eligible for the Essential Plan and ineligible for Medicaid, it is correct and is AFFIRMED.

## **Decision**

The September 16, 2017 eligibility determination notice is RESCINDED, in part, as it pertains to your eligibility.

The September 16, 2017 plan disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your coverage in your Medicaid Managed Care plan as of October 1, 2017, and to notify you accordingly.

The October 20, 2017 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** January 8, 2018

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

Your Medicaid coverage, which began on September 1, 2017, continues until August 31, 2018, barring subsequent disqualifying events that may affect your eligibility.

Your case is being sent back to NYSOH to reinstate your coverage in your Medicaid Managed Care plan as of October 1, 2017.

This Decision does not affect your spouse's eligibility.

NYSOH properly determined that your spouse was eligible for the Essential Plan, effective December 1, 2017.

NYSOH properly determined that your spouse was ineligible for Medicaid.

## **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

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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

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## **Summary**

The September 16, 2017 eligibility determination notice is RESCINDED, in part, as it pertains to your eligibility.

The September 16, 2017 plan disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your coverage in your Medicaid Managed Care plan as of October 1, 2017, and to notify you accordingly.

The October 20, 2017 eligibility determination notice is AFFIRMED.

Your Medicaid coverage, which began on September 1, 2017, continues until August 31, 2018, barring subsequent disqualifying events that may affect your eligibility.

Your case is being sent back to NYSOH to reinstate your coverage in your Medicaid Managed Care plan as of October 1, 2017.

This Decision does not affect your spouse's eligibility.

NYSOH properly determined that your spouse was eligible for the Essential Plan, effective December 1, 2017.

NYSOH properly determined that your spouse was ineligible for Medicaid.

## **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**



## **Getting Help in a Language Other than English**

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

### **Español (Spanish)**

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

### **中文 (Traditional Chinese)**

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

### **Kreyòl Ayisyen (Haitian Creole)**

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

### **中文 (Simplified Chinese)**

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您免费提供相应语种的口译服务。

### **Italiano (Italian)**

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

### **한국어 (Korean)**

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

### **Русский (Russian)**

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

### **العربية (Arabic)**

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

### **বাংলা (Bengali)**

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### **Français (French)**

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

### **हिंदी (Hindi)**

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

### **日本語 (Japanese)**

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

### **नेपाली (Nepali)**

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

### **Polski (Polish)**

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

### **Twi (Twi)**

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. y&b&tumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

### **(Urdu) اردو**

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

### **Tiếng Việt (Vietnamese)**

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

### **שׂוֹדִישׁ (Yiddish)**

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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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