



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
PO Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: February 01, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023562

[REDACTED]

[REDACTED]

On December 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's failure to find your two youngest children eligible for financial assistance with health insurance.

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  
PO 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(b).

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

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## Decision

Decision Date: February 01, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023562



## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that your two youngest children are not eligible for financial assistance with their health insurance?

## Procedural History

On March 30, 2017, May 28, 2017, June 9, 2017, July 11, 2017, July 26, 2017, and August 29, 2017, NYSOH issued notices stating that the income information in your application did not match what NYSOH received from state and federal sources. You were directed to provide proof of your household income or NYSOH would be unable to determine the eligibility of your two youngest children for health coverage.

On March 30, 2017, April 29, 2017, June 9, 2017, August 16, 2017, and August 18, 2017, NYSOH issued notices stating that the documentation received did not confirm the information in your applications. You were directed to submit additional documentation of your household income.

On September 19, 2017, NYSOH issued a notice stating your two youngest children were eligible to purchase a qualified health plan at full cost, effective November 1, 2017. The notice indicated your two youngest children were not eligible for financial assistance, because NYSOH had not received sufficient documentation to verify the income information listed in your application by the deadline.

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On October 20, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as your two youngest children were not eligible for Medicaid.

On December 18, 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 to January 5, 2017 to allow you to submit supporting documents. On January 2, 2018, the Appeals Unit received your documentation which was incorporated into the record as Appellant's Exhibit #1. The record closed thereafter.

## **Findings of Fact**

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

- 1) You testified you are appealing the eligibility of your two youngest children.
- 2) According to your account, your two youngest children were disenrolled from their health plan, effective March 31, 2017 and have not had health coverage since that time.
- 3) You testified, and your applications since November 2017 indicate, you will file your 2017 tax return with a tax filing status of head of household and you will claim your four children as dependents.
- 4) Your fiancé, [REDACTED] is also on your NYSOH account. You testified that you live together, but you are not married and you file your taxes separately.
- 5) According to your account, [REDACTED] is the father of your two youngest children.
- 6) According to your account, you and your older two children have been continuously enrolled in Medicaid through NYSOH since December 2016.
- 7) The updated application filed on behalf of your family on March 2, 2017 indicated you and your youngest son, [REDACTED], and your fiancé were earning income.
- 8) According to your account, NYSOH was unable to verify the income information in that application and you were directed to submit proof of the household income.
- 9) You submitted income documentation several times between March and August 2017 that was invalidated by NYSOH on the grounds the paystubs

were either outdated or inconsecutive or that the letters of employment contained insufficient information.

- 10) Notes in your account from August 28, 2017 include: "Valid proof of income. ██████ submitted 2 current bi-weekly pay stubs, ██████ submitted a letter of separation and ██████ submitted valid UIB."
- 11) Your family's eligibility was subsequently systematically redetermined on August 28, 2017. You, your fiancé, and your two older children were determined eligible for Medicaid, effective August 1, 2017. Your two youngest children remained in pending Medicaid status with additional income documentation requested.
- 12) On September 18, 2017, NYSOH systematically redetermined the eligibility of your family. You, your finance, and your two older children were determined eligible for Medicaid, effective September 1, 2017.
- 13) Your youngest two children were determined ineligible for financial assistance on the grounds you failed to submit sufficient documentation of your household income.
- 14) You appealed insofar as your youngest two children were not eligible for financial assistance.
- 15) You testified you are only seeking eligibility for your children going forward. You testified you are not seeking to backdate their coverage, because they do not have any outstanding medical bills.
- 16) On November 7, 2017, an updated application was submitted on behalf of your family. That application indicated that you were currently employed and that your daughter, ██████ had been employed since September 2017. The application indicated that your fiancé was receiving unemployment insurance benefits and that your youngest son had not earned income since April 2017.
- 17) You, your fiancé, and your older two children were determined fully eligible for Medicaid based on the information in the November 7, 2017 application. Your youngest two children remained in a pending Medicaid status with additional documentation of your household income requested prior to issuing a determination of their eligibility.
- 18) On November 27, 2017, NYSOH receive a copy of an employment letter dated November 17, 2017 stating your youngest son was no longer employed and his last date of employment was May 19, 2017.

- 19) Also on November 27, 2017, NYSOH received the following paystubs submitted on behalf of your daughter:
  - a. Check date of September 22, 2017 in the gross amount of \$244.93.
  - b. Check date of September 29, 2017 in the gross amount of \$135.80.
  - c. Check date of October 6, 2017 in the gross amount of \$116.40 with year to date income of \$497.13.
  - d. Check date of October 20, 2017 in the gross amount of \$111.55 with year to date income of \$742.06
    - i. This documentation was invalidated by NYSOH
- 20) You testified that only you and your daughter were currently employed. You testified your fiancé was receiving unemployment insurance benefits (UIB), your youngest son had been unemployed since May 2017, and your older two children had not been employed since 2016.
- 21) You were directed to submit current proof of your household income.
- 22) On January 2, 2018, the Appeals Unit received the following documentation:
  - a. Biweekly paystub for you with check date of December 15, 2017 in the gross amount of \$1,246.65.
  - b. Biweekly paystub for you with check date of December 29, 2017 in the gross amount of \$1,261.10 with year to date income of \$33,913.49.
  - c. An official record of unemployment benefit payment history for your fiancé showing he had been in receipt of weekly benefits in the gross amount of \$304.00 since October 2017.
- 23) On January 17, 2017, NYSOH systematically redetermined your family's eligibility. You, your fiancé, and your older two children were determined fully eligible for Medicaid, but your younger two children were still in pending Medicaid status with additional income documentation requested.
- 24) According to your account, your youngest son is [REDACTED] and a full-time student. Your daughter is [REDACTED] Your older two children are over the age of 21.

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

## **Applicable Law and Regulations**

### Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR § 155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f) 42 CFR § 435.952).

### 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.*).

### Dependent Income

With regard to eligibility for financial assistance through NYSOH, a tax filer's household income includes the MAGI of all the individuals in the taxpayer's household who are required to file a federal tax return for the taxable year (26 CFR § 1.36B-1(e)(1); 42 CFR § 435.603(d)(1)). The MAGI-based income of a child who is not required to file a tax return is not included in household income (42 CFR § 435.603(d)(2)).

A person is not required to file a tax return if their gross income is less than the sum of the exemption amount plus the basic standard deduction allowable for

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that person (26 USC § 6012(a)(1)(A)). For 2017, a dependent who had yearly gross earned income greater than \$6,300.00 or gross unearned income greater than \$1,050.00 would be required to file a tax return (see IRS Publication 929 as of 8/25/2017).

### Household Composition

In the case where a child is claimed by one parent as a dependent and who is living with both parents who are not filing a joint tax return (42 CFR § 435.603(f)(2)(ii)), the child's family includes the following persons, if living with the child: (1) the child's parents, (2) the child's spouse, (3) the child's children and siblings under the age of 19, or 21 if a full-time student (42 CFR § 435.603(f)(3)).

### **Legal Analysis**

The issue under review is whether NYSOH properly determined your two youngest children were not eligible for financial assistance with health insurance.

According to your account, since March 31, 2017, your two youngest children have either been in a pending Medicaid status or ineligible for financial assistance based on a purported failure to submit sufficient documentation of their household income. However, your account confirms that the other members of the household have been determined eligible for Medicaid based on the same applications and the same income documentation.

You testified, and your applications since November 2017 indicate, you will file your 2017 tax return with a tax filing status of head of household and you will claim your four children as dependents. Your fiancé, [REDACTED], is also on your NYSOH account. You testified that you live together, but you are not married and you file your taxes separately. According to your account, [REDACTED] is the father of your two youngest children.

Pursuant to the above cited regulations, in the case where a child is claimed by one parent as a dependent and who is living with both parents who are not filing a joint tax return, the child's family includes the following persons, if living with the child: (1) the child's parents, (2) the child's spouse, (3) the child's children and siblings under the age of 19, or 21 if a full-time student.

The record establishes that your two youngest children are in a four-person household including you, your fiancé/ their father, and each other. Thus, their eligibility for financial assistance is based on the income received by all persons in their household.



According to notes in your account, on August 28, 2017, NYSOH verified your household income documents including your two bi-weekly pay stubs, your youngest son's letter of separation, and your fiancé's proof of receipt of UIB. NYSOH systematically redetermined your family's eligibility the same day and determined everyone, except your youngest two children, eligible for Medicaid. Your youngest two children were still in a pending Medicaid status with additional income documentation requested.

On September 18, 2017, NYSOH, again, systematically redetermined the eligibility of your family. You, your finance, and your two older children were determined eligible for Medicaid, effective September 1, 2017, but your youngest two children were determined ineligible for financial assistance on the grounds you failed to submit sufficient documentation of your household income. You appealed that determination insofar as your two youngest children were not eligible for financial assistance.

Based on the record establishing that NYSOH accepted the income documentation submitted to determine the eligibility of other members of your children's household, it is concluded that NYSOH's contention that those documents were insufficient to determine the eligibility of your youngest two children is not supported by the record. However, you testified that you are only seeking eligibility for financial assistance for your two youngest children going forward. You testified your children do not have any outstanding medical bills from the time they were without health coverage.

You testified that only you and your daughter were currently employed. You testified that your daughter began working in September 2017. On November 27, 2017, you uploaded four weekly paystubs for your daughter. NYSOH invalidated that documentation, likely because the paystubs were not consecutive as the October 13, 2017 paystub was missing. However, the gross amount on that paystub can be extrapolated based on the year to date income listed in the previous and subsequent paystubs submitted. Thus, based on the paystubs provided, it is concluded that your daughter's average gross weekly income is \$148.41 which amounts to \$7,717.42 for the year. Since your daughter's annual income amount, based on the documentation provided, would require her to file a tax return, her income is included in the household income calculation.

You testified, and a previously submitted November 17, 2017 employer letter confirms, your youngest son has not been employed since May 2017. You testified that your fiancé is currently in receipt of UIB. You submitted documentation establishing his gross weekly benefit rate is \$304.00.

Finally, you submitted documentation of your own income showing average gross biweekly earnings of \$1,253.88 or an annual income of \$32,600.75.

Thus, the record now contains sufficient documentation of your two youngest children's household income, including your annual income of \$32,600.75, your daughter's annual income of \$7,717.42, and your fiancé's annual UIB total of \$15,808.00, for a total 2018 household income of \$56,126.17. Therefore, your case is RETURNED to NYSOH to redetermine your two youngest children's eligibility for financial assistance with health insurance through NYSOH based on a household size of four and the record establishing their household income for 2018 is \$56,126.17.

## **Decision**

Your case is RETURNED to NYSOH to redetermine the eligibility of your two youngest children based on a household size of four and an annual household income of \$56,126.17.

**Effective Date of this Decision:** February 01, 2018

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

This is not a final determination of your children's eligibility.

Your case is being sent back to NYSOH to redetermine the eligibility of your two youngest children in accordance with this decision.

NYSOH will issue an updated eligibility determination notice.

## **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 appeal 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.

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).

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  
PO Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

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## **Summary**

Your case is RETURNED to NYSOH to redetermine the eligibility of your two youngest children based on a household size of four and an annual household income of \$56,126.17.

This is not a final determination of your children's eligibility.

NYSOH will issue an updated eligibility determination notice.

## **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 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&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.