



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

Notice of Decision

Decision Date: December 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023567

[REDACTED]

Dear [REDACTED]

On December 12, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 17, 2017 eligibility determination and October 21, 2017 enrollment confirmation 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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Decision Date: December 26, 2017

NY State of Health Account ID: [REDACTED]
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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 eligible for the Essential Plan?

Did NY State of Health properly determine that you were not eligible for Medicaid?

Did NY State of Health provide a timely determination of your Essential Plan eligibility as of October 17, 2017?

Did NY State of Health properly determine that your Essential Plan began December 1, 2017?

Procedural History

On September 13, 2017, you updated your application for financial assistance through NY State of Health (NYSOH).

On September 14, 2017, NYSOH issued a notice stating it had reviewed your application for health insurance dated September 13, 2017, but that additional information was required to confirm your eligibility because the income in your application did not match federal and state data sources. That notice asked you to provide proof of your household income by September 28, 2017, so that NYSOH could make a determination on your application for assistance.

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On October 4, 2017, NYSOH issued a notice stating it had reviewed your application for health insurance dated September 13, 2017, but that more information was needed to make a determination. The notice explained the income in your application did not match federal and state data sources. That notice asked you to provide proof of your household income by September 28, 2017, so that NYSOH could make a determination on your application for assistance.

On October 5, 2017, you contacted NYSOH and updated your application for financial assistance.

On October 6, 2017, NYSOH issued a notice stating that it had reviewed your application for health insurance dated October 5, 2017, but that more information was needed to make a determination. The notice explained the income in your application did not match federal and state data sources. That notice asked you to provide proof of your household income by September 28, 2017, so that NYSOH could make a determination on your application for assistance.

On October 11, 2017, you faxed income documentation to NYSOH.

On October 16, 2017, NYSOH verified the income documentation you submitted and determined it was sufficient to verify your income. NYSOH recalculated your household income based on the information you provided, updated the income in your application based on this recalculation, and then submitted an application on your behalf.

On October 17, 2017, NYSOH issued an eligibility notice, stating that you were eligible to enroll in the Essential Plan, with a \$20.00 premium per month, effective December 1, 2017. That notice also stated that you were not eligible for Medicaid because your income was over the allowable income limits.

On October 20, 2017, you selected an Essential Plan for enrollment.

Also on October 20, 2017, you contacted the NYSOH Account Review Unit and requested an appeal of the start date of your Essential Plan, requesting that it begin October 1, 2017.

On October 21, 2017, NYSOH issued a notice of plan enrollment, stating that your enrollment with your Essential Plan began December 1, 2017.

On December 12, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During that hearing, your appeal was amended to include an appeal of your October 17, 2017 eligibility determination, insofar as you were not eligible for Medicaid. 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, and the record reflects, that you are appealing your enrollment start date of your Essential Plan to begin on October 1, 2017. You testified that you also want to appeal your eligibility determination because you want coverage under Medicaid.
- 2) On September 13, 2017, you contacted NYSOH to renew your application for financial assistance with health insurance.
- 3) You were placed into pending Medicaid status with proof of income required on or before September 28, 2017 to confirm your eligibility for health coverage.
- 4) On October 11, 2017, you faxed a copy of your Social Security benefits award letter to NYSOH.
- 5) On October 16, 2017, NYSOH reviewed your Social Security benefit award letter and determined it was sufficient proof of your income.
- 6) You testified, and provided documentation, that your monthly income consists of \$1,673.00 you receive per month in Social Security Benefits, including in October 2017.
- 7) NYSOH determined that your annual household income was \$20,076.00, consisting of income you receive from Social Security Benefits. You testified that this amount was correct.
- 8) You were determined eligible for the Essential Plan on October 17, 2017, with an effective date of December 1, 2017.
- 9) The record reflects that you selected an Essential Plan on October 20, 2017.
- 10) Your application states that you are in a household of one person and do not plan on filing an income tax return.
- 11) You testified that you want your Essential Plan to begin on October 1, 2017, because you submitted your income documentation that month.
- 12) You testified that you believe you are eligible for Medicaid beginning on October 1, 2017, because you are on a limited fixed income.

- 13) You are seeking insurance for yourself.
- 14) You testified you will not be filing taxes for 2017.
- 15) Your application states that you live in Richmond County.

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

Applicable Law and Regulations

Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

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).

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 \$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 March 19, 2014). On the date of your application that was the 2017 FPL, which is \$1,005.00 per month for a one-person household (82 Fed. Reg. 8831).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential 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 first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see *also* 42 CFR § 600.320). 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)).

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 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).

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).

Timely Notice of Essential Plan Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

NYSOH uses the same timeliness standards for eligibility determinations for the Essential Plan as for Medicaid (42 CFR §600.320(b)). NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were eligible for the Essential Plan.

Your application states that you are in a household of one person and do not plan on filing an income tax return. Based on your Social Security Benefit award letter, NYSOH determined that your annual household income was \$20,076.00. You testified that this amount was correct.

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. 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. On the date of your application, the relevant FPL was \$11,880.00 for a one-person household. Since an annual household income of \$20,076.00 is 168.98% of the 2016 FPL, NYSOH properly found you to be eligible for the Essential Plan with a \$20.00 per month premium contribution.

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The second issue is whether NYSOH properly determined that you were not eligible 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 \$12,060.00 for a one-person household. Since \$20,076.00 is 166.46% of the 2017 FPL, NYSOH properly found you were not eligible for Medicaid on an expected annual income basis, 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.

You testified, and provided documentation that shows that your income for October 2017 was \$1,673.00.

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 \$1,005.00 per month. Since the documentation you provided shows that you earned \$1,673.00 in October 2017 you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

Since the October 17, 2017 eligibility determination properly stated that, based on the information you provided, you were eligible for the Essential Plan with a \$20.00 premium payment, and not eligible for Medicaid, it is correct and is AFFIRMED.

The third issue is whether NYSOH provided you with a timely determination of your Essential Plan eligibility as of October 17, 2017.

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will also NYSOH to verify the household's income.

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.

You updated your NYSOH account on September 13, 2017. The income that was entered into this application did not match state and federal data sources. As a result, NYSOH asked that you submit documentation to confirm your income.

You testified that on October 11, 2017, you faxed a copy of your Social Security benefit award to NYSOH.

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).

On October 16, 2017, NYSOH reviewed the income documentation you submitted and determined it was sufficient to verify your household income. Therefore, your application was considered complete as of October 16, 2017.

On October 17, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan, effective December 1, 2017.

NYSOH must provide Essential Plan applicants notice of their eligibility determination within 45 days from the date of the completed application. To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of the completed application to the date NYSOH notifies the applicant of its decision.

Your application was considered complete as of October 11, 2017 for the purpose of issuing an eligibility determination. NYSOH issued an eligibility notice on October 17, 2017 that stated that you were eligible for the Essential Plan effective December 1, 2017. Since NYSOH issued an eligibility determination six days after your application was considered complete, the October 17, 2017 eligibility determination was timely.

The fourth issue is whether NYSOH properly determined that your enrollment in the Essential Plan was effective December 1, 2017.

The record reflects that you contacted NYSOH on October 20, 2017 and selected an Essential Plan.

During the hearing, you testified that you submitted the required information in October 2017, and therefore you should have been enrolled in your Essential Plan as of October 1, 2017. However, the date on which enrollment in an Essential Plan 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 the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

Since the October 17, 2017 eligibility determination notice was timely issued, you were able to select an Essential Plan as of that day, October 17, 2017. You selected a plan on October 20, 2017, therefore, your enrollment properly took effect on the first day of the second month following month after October; that is on December 1, 2017.

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).

Therefore, the October 17, 2017 eligibility determination notice and the October 21, 2017 enrollment notice stating that you enrolled in the Essential Plan effective December 1, 2017, are correct and must be AFFIRMED.

Decision

The October 17, 2017 eligibility determination notice is AFFIRMED.

The October 21, 2017 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: December 26, 2017

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You remain eligible for the Essential Plan.

The effective date of your Essential Plan is December 1, 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

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).

- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The October 17, 2017 eligibility determination notice is AFFIRMED.

The October 21, 2017 enrollment confirmation notice is AFFIRMED.

This decision does not affect your eligibility.

You remain eligible for the Essential Plan.

The effective date of your Essential Plan is December 1, 2017.

Legal Authority

We are issuing this determination in accordance with 45 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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A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

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

Español (Spanish)

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

中文 (Traditional Chinese)

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

Kreyòl Ayisyen (Haitian Creole)

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

中文 (Simplified Chinese)

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

Italiano (Italian)

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

한국어 (Korean)

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

Русский (Russian)

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

العربية (Arabic)

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

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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

Français (French)

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

हिंदी (Hindi)

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

日本語 (Japanese)

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

नेपाली (Nepali)

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

Polski (Polish)

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

Twi (Twi)

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

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).