



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

## Notice of Decision

Decision Date: February 01, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023685

[REDACTED]

[REDACTED]

On December 20, 2017, your representative appeared on your behalf by telephone at a hearing on your appeal of NY State of Health's October 16, 2017 eligibility determination.

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: February 01, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023685

[REDACTED]

## Issue

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

Did NY State of Health properly determine you were not eligible to receive financial assistance with your health insurance?

## Procedural History

On July 31, 2017, NYSOH received an updated application for financial assistance with health insurance submitted on your behalf.

On August 1, 2017, NYSOH issued an eligibility determination notice stating you were eligible for the Essential Plan with a \$20.00 monthly premium, for a limited time, effective September 1, 2017. The notice directed you to submit proof of your income by October 29, 2017 or you might lose your insurance or receive less help paying for your coverage. That notice contained a "Documentation List" providing the kinds of documents accepted to prove various types of income. The notice indicated that to prove wages, an applicant must submit paystubs for the last four weeks or a letter signed and dated by the employer. The notice also indicated that to prove self-employment income an applicant must submit records of detailed earnings and expenses or payroll records for the last three months, or a signed and dated filed income tax return from the previous year if representative of attested income.

Also on August 1, 2017, NYSOH issued an enrollment notice confirming you were enrolled in an Essential Plan, effective September 1, 2017.

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On August 2, 2017, August 3, 2017, August 5, 2017, August 17, 2017, and August 19, 2017, NYSOH issued notices stating the documentation received did not confirm the information in your application. You were directed to submit additional documentation of your income to confirm your eligibility.

On September 20, 2017, NYSOH received another updated application for financial assistance with health insurance submitted on your behalf.

On September 21, 2017, NYSOH issued a notice stating the income information in your application did not match information received from state and federal data sources. You were directed to submit proof of your income by October 5, 2017, or NYSOH would not be able to determine your eligibility for health coverage. That notice also contained a "Documentation List."

Also on September 21, 2017, NYSOH issued a disenrollment notice stating your Essential Plan coverage would end on October 31, 2017, because you were no longer eligible to enroll in that plan.

On October 15, 2017, NYSOH systematically redetermined your eligibility.

On October 16, 2017, NYSOH issued an eligibility determination notice stating you were eligible to purchase a qualified health plan at full cost, effective November 1, 2017. The notice indicated you were not eligible for financial assistance, because NYSOH did not receive the documentation needed to verify the income information in your application by the deadline.

On October 25, 2017, you spoke to NYSOH's Account Review Unit and appealed that determination insofar as you were not eligible for the Essential Plan.

On December 20, 2017, you orally authorized [REDACTED] to represent you at the telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to allow you to submit supporting documents. On December 21, 2017, the NYSOH Appeals Unit received the requested documentation and it 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) An updated application for financial assistance was submitted on your behalf on July 31, 2017.

- 2) That application listed your annual expected income as \$19,976.00 consisting of inconsistent payments received throughout 2017 from seven different employers.
- 3) According to your account, NYSOH was unable to verify the income information listed in your application and you were determined conditionally eligible to enroll in the Essential Plan with income documentation requested to confirm your eligibility.
- 4) Between August 1, 2017 and August 17, 2017, various documents were uploaded to your NYSOH account including a signed IRS e-file authorization form 8879 from your 2016 tax return showing adjusted gross income of \$19,628.00 [REDACTED], a tax form showing wages received (\$20,006.00) and taxed withheld from various employers, filing instructions and a worksheet from your 2016 tax return, copies of payroll checks and paystubs issued to you for various dates in 2017 by various entities.
- 5) According to your account, the income documentation submitted was invalidated by NYSOH on various grounds including the documentation was outdated and/ or for inconsistent pay periods, or the tax forms were incomplete and/ or did not conform to the document requests.
- 6) You remained conditionally eligible for the Essential Plan with additional income documentation requested.
- 7) On September 20, 2017, NYSOH received an updated application submitted on your behalf. That application decreased your attested annual income to \$9,336.00 consisting of inconsistent payments received throughout 2017 from six different employers.
- 8) According to your account, the income information in that application did not match information received from data sources, so you were placed in a pending Medicaid status with proof of your income requested by October 5, 2017 prior to NYSOH determine your eligibility.
- 9) You were disenrolled from your Essential Plan, effective October 31, 2017, because you were no longer eligible for that plan based on the income information in your application.
- 10) According to your account, no additional income documentation was received by NYSOH by October 5, 2017.
- 11) On October 15, 2017, NYSOH systematically redetermined your eligibility and found you ineligible for financial assistance on the grounds NYSOH

- had not received documentation needed to verify the income information in your application by the deadline.
- 12) You appealed that determination insofar as you were not eligible for financial assistance with your health insurance.
  - 13) ██████████ represented you at the hearing and testified that you live with him and he helps you with your records and finances, so he has personal knowledge of the income you earn.
  - 14) Your representative testified that you are ██████████ and that you did not have consistent work in 2017, but you earned income throughout the year from various jobs lasting only a couple of days.
  - 15) Your representative testified that when you work, generally the employer pays your agency who then deducts their "cut" and issues the remainder to you by check.
  - 16) Your representative testified that you also receive income in the form of "residual" payments for ██████████ that are paid periodically throughout the year.
  - 17) Your representative testified that due to the inconsistent nature of your work, it is not possible to provide four weeks of paystubs and that you were unable to obtain employer letters from each employer you worked for, through your agency.
  - 18) Your representative testified that you would earn substantially the same amount of income in 2017 as you did in 2016.
  - 19) According to your applications, you will file your 2017 tax return with a tax filing status of single and you will claim no dependents.
  - 20) Your applications indicate you will not take any deductions on your tax return.
  - 21) Your representative testified that you do not have any outstanding medical bills so you are not looking to back date coverage. Your representative testified that you are only seeking eligibility for financial assistance with health insurance going forward.
  - 22) Your representative was directed to submit a full copy of your 2016 tax return, which was received by the Appeals Unit on December 21, 2017 showing adjusted gross income in the amount of \$19,628.00. Neither the included IRS e-file authorization form 8879 or the form 1040 were signed by you.

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).

### 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 Federal Register 4036).

## **Legal Analysis**

The issue is whether NYSOH properly determined you were not eligible to receive financial assistance with your health insurance, effective November 1, 2017.

An updated application for financial assistance was submitted on your behalf on July 31, 2017. That application listed your annual expected income as \$19,976.00, consisting of inconsistent payments received throughout 2017 from

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seven different employers. According to your account, NYSOH was unable to verify the income information listed in your application and income documentation was requested.

Between August 1, 2017 and August 17, 2017, you uploaded various income documents to your NYSOH account. That documentation included an e-file authorization form and a worksheet from your 2016 tax return. You also submitted a tax form showing wages received and taxed withheld from various employers, as well as copies of payroll checks and paystubs issued to you for various dates in 2017 by various entities. According to your account, this documentation was invalidated by NYSOH, because it did not comply with the document request and additional documentation was requested.

On September 20, 2017, NYSOH received an updated application submitted on your behalf decreasing your attested annual income to \$9,336.00 consisting of inconsistent payments received from six different employers. You were disenrolled from your Essential Plan, effective October 31, 2017, since, according to the income information in your September 20, 2017 application, you were no longer eligible for that plan. NYSOH placed you in a pending Medicaid status and requested proof of your income by October 5, 2017 prior to NYSOH determining your eligibility. The September 21, 2017 eligibility determination notice issued by NYSOH contained a "Documentation List."

The record confirms that no additional documentation of your income was received by NYSOH by October 5, 2017. On October 15, 2017, NYSOH systematically redetermined your eligibility and found you ineligible for financial assistance based on your failure to submit documentation sufficient to confirm the income information in your application. You appealed that determination insofar as you were not eligible for financial assistance.

Pursuant to the regulations, 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. 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. In the notice issued by NYSOH on September 21, 2017, you were advised that NYSOH could not determine your eligibility for health coverage unless you submitted documentation sufficient to verify the income information in your application by October 5, 2017.

Your account confirms that no additional documentation of your income was received by NYSOH by the October 5, 2017 deadline. Furthermore, it is concluded that the income documentation previously submitted in August 2017 was not sufficient as it did not comply with the various document requests.



The “Documentation List” included in the various document requests specified that to prove wages, an applicant must submit paystubs for the last four weeks or a letter signed and dated by the employer. Your representative credibly testified that due to the inconsistent nature of your work, it was not possible to provide four weeks of paystubs and that you were unable to obtain employer letters from each employer you worked for.

However, you submitted several letters in August 2017 indicating that you were an actor and that you were “self-employed.” The document requests indicated that to prove self-employment income, an applicant must submit records of detailed earnings and expenses or payroll records for the last three months, or a signed and dated filed income tax return from the previous year if representative of attested income. Although the record confirms that in August 2017 you submitted an e-file authorization form and a worksheet from your 2016 tax return, those documents did not constitute a signed and dated filed tax return from the previous year as specified in the document requests to prove self-employment income, nor did the other various documents constitute sufficient records of earnings and expenses for the three-month period prior to the application.

Since the evidence establishes that NYSOH did not have sufficient information to verify the income amount listed in your application on October 15, 2017, the resulting October 16, 2017 eligibility determination indicating you were not eligible for financial assistance, effective November 1, 2017, was correct and is **AFFIRMED**.

However, at the hearing, your representative testified that you expect to make the same amount of income in 2017 as you did in 2016. Thus, given the inconsistent nature of your income, it is concluded that your previous year’s tax return is the best evidence of your current income.

On December 21, 2017, the Appeals Unit received a copy of your 2016 tax return showing adjusted gross income of \$19,628.00. Although it is noted that the copy submitted was not signed by you, you had previously uploaded the signed IRS e-file authorization form 8879 from that tax return (██████████). As such, the record contains your signed and filed tax return.

Thus, the record now contains sufficient documentation of your income and your case is **RETURNED** to NYSOH to redetermine your eligibility based on the evidence establishing that your annual income is \$19,628.00 and that you are in a one-person household.

## **Decision**

The October 16, 2017 eligibility determination is **AFFIRMED**.

Your case is RETURNED to NYSOH to redetermine your eligibility based on an annual income of \$19,628.00 and a one-person household.

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

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

This is not a final determination of your eligibility.

Your case is being sent back to NYSOH to redetermine your eligibility in accordance with this decision.

You will receive an updated eligibility determination notice from NYSOH.

### **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:  
Health Insurance Marketplace  
Attn: Appeals  
465 Industrial Blvd.  
London, KY 40750-0061
- By fax: 1-877-369-0129

If you 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 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 16, 2017 eligibility determination is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your eligibility based on an annual income of \$19,628.00 and a one-person household.

This is not a final determination of your eligibility.

You will receive an updated eligibility determination notice from NYSOH.

### **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 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.

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