



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

Notice of Decision

Decision Date: February 02, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023812

[REDACTED]

On January 18, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's October 31, 2017 eligibility determination notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: February 02, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023812

[REDACTED]

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 you and your spouse were ineligible for the Essential Plan?

Procedural History

On August 30, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan with a \$20.00 premium per month for a limited time, effective as of October 1, 2017. The notice directed you to provide proof of income by September 12, 2017, to confirm your eligibility.

Also on August 30, 2017, NYSOH issued an enrollment notice confirming that as of August 29, 2017, you and your spouse were enrolled in an Essential Plan with an enrollment start date of July 1, 2017. The notice directed you to provide proof of income to confirm your eligibility.

On October 4, 2017, your NYSOH account was systemically updated.

On October 5, 2017, NYSOH issued three notices:

- (1) An eligibility determination notice stating that you were eligible to enroll in the Essential Plan with a \$20.00 premium per month for a limited time, and your spouse was newly eligible to purchase a qualified health plan at

full cost, effective November 1, 2017. The notice directed you to provide proof of income by October 12, 2017, to confirm your eligibility;

- (2) A disenrollment notice stating that your spouse's Essential Plan coverage would end on October 31, 2017;
- (3) An enrollment notice confirming that as of October 4, 2017, you were enrolled in an Essential Plan with an enrollment start date of July 1, 2017. The notice directed you to provide proof of income by October 12, 2017, to confirm your eligibility.

On October 17, 2017, your NYSOH account was updated.

Also on October 17, 2017, you uploaded documentation to your NYSOH account

[REDACTED]).

On October 18, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a qualified health plan at full cost, effective December 1, 2017.

Also on October 18, 2017, NYSOH issued a disenrollment notice stating that your Essential Plan coverage would end on November 30, 2017, because you were no longer eligible to enroll in that plan.

On October 30, 2017, your NYSOH account was updated.

On October 30, 2017, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as you and your spouse were determined ineligible for the Essential Plan.

On October 31, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible for a tax credit up to \$463.00 per month, effective December 1, 2017. Further, you and your spouse were determined ineligible for the Essential Plan because your income exceeded the income threshold for that program.

On November 3, 2017, your account was systemically updated.

On November 4, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible for the Essential Plan with a \$20.00 premium for a limited time, effective as of November 1, 2017. You had been granted Aid to Continue until a decision was made on your appeal.

Also on November 4, 2017, NYSOH issued an enrollment notice confirming that as of November 3, 2017, you and your spouse were enrolled in an Essential Plan with an enrollment start date of November 1, 2017.

On December 20, 2017, you had a scheduled telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You stated that you did not receive notice of the hearing, and the hearing was adjourned until January 18, 2018.

On January 18, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, and the record was left open until January 25, 2018, to allow you to submit your last four paystubs from your employer.

On January 23, 2018, you uploaded additional income documentation to your NYSOH account ([REDACTED]). That documentation has been made part of the record as "Appellant Exhibit A." The record is now complete and closed.

Findings of Fact

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

- 1) You testified that you were appealing that you and your spouse were determined ineligible to enroll in the Essential Plan.
- 2) According to your NYSOH account and testimony, you are applying for yourself and your spouse.
- 3) According to your October 30, 2017 application, you attested to filing a 2017 federal income tax return with the tax status of married filing jointly and did not expect to claim any dependents on that tax return.
- 4) According to your NYSOH account and testimony, you are employed at [REDACTED] and have been for all of 2017.
- 5) On October 17, 2017, you submitted your four most recent paystubs to NYSOH. You were issued federal taxable gross income of:
 - (a) \$ 992.84 on September 22, 2017;
 - (b) \$ 855.27 on September 29, 2017;
 - (c) \$1,085.99 on October 6, 2017;
 - (d) \$ 876.75 on October 13, 2017;

- 6) According to your NYSOH account, you do not expect to claim any deductions on your 2017 federal income tax return.
- 7) According to your NYSOH account, you reside in [REDACTED] New York.
- 8) On August 28, 2017, you submitted a termination letter from your spouse's former employer, [REDACTED]. The letter states that your spouse was employed from August 2016 until June 2017.
- 9) You testified that your spouse earned approximately \$20,000.00 from Simply Thai in 2017.
- 10) You testified that your income is inconsistent and you are no longer eligible to receive overtime.
- 11) On January 23, 2017, you submitted your four most recent paystubs to NYSOH (see Appellant Exhibit A). You were issued federal taxable gross income of:
 - (a) \$ 684.55 on December 29, 2017;
 - (b) \$ 684.74 on January 5, 2018;
 - (c) \$1,103.06 on January 12, 2018;
 - (d) \$ 683.88 on January 19, 2018

- [REDACTED]
- 12) According to your December 29, 2017 paystub, your year-to-date earnings were \$41,289.10.

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

Applicable Law and Regulations

Verification of Eligibility - Income

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

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documentary evidence (45 CFR §155.315(f); 42 CFR §600.345 (a)) See also New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

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)).

Household Composition

For APTC, CSR and the Essential Plan, the household size equals the number of individuals for whom the taxpayers are allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

Essential Plan

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

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2016 FPL, which is \$16,020.00 for a two-person household (81 Federal Register 4036).

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Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse were ineligible for the Essential Plan as October 31, 2017.

On August 30, 2017, NYSOH issued notices stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time. The notices instructed you to provide additional proof of your income and provided a list of acceptable documentation.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to their household's projected annual income. For individuals seeking financial assistance, NYSOH must request income data from federal data sources to verify an individual's income attestation. If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

The record reflects that you had submitted a termination letter from your spouse's former employer stating that your spouse was employed from August 2016 until June 2017. Further, you testified that your spouse earned approximately \$20,000.00 from that employer in 2017. Based on the available record, your spouse's 2017 income was \$20,000.00.

The record reflects that you submitted your four most recent weekly earnings statements from your employer, [REDACTED] to NYSOH. Based on the December 29, 2017 paystub, your year-to-date earnings in 2017 were \$41,289.10.

Based on the available record, your household's 2017 annual income should have been calculated to be \$61,289.10.

An individual who expects to file a federal income tax return, the household equals the taxpayers and the number of individuals for whom the taxpayer is claiming as a dependent.

You attested that you expect to file a 2017 federal income tax return, with the tax status of married filing jointly, and did not expect to claim any dependents on that return. Therefore, you were in a two-person household.

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 \$61,289.10 is 382.58% of the

2016 FPL, NYSOH properly found you and your spouse to be ineligible for the Essential Plan.

The October 31, 2017 eligibility determination properly stated that you and your spouse were ineligible for the Essential Plan. Therefore, it is correct and AFFIRMED in relevant part.

You testified that your income is inconsistent and are no longer eligible to receive overtime. Therefore, you were instructed to provide your last four weekly paystubs return to NYSOH's Appeals Unit.

On January 23, 2017, you submitted your four most recent paystubs to NYSOH. You were issued federal taxable gross income of: \$684.55 on December 29, 2017; \$684.74 on January 5, 2018; \$1,103.06 on January 12, 2018, and \$683.88 on January 19, 2018 [REDACTED]

Based on the documentation, you and your spouses expected 2018 annual household income is \$41,030.99. $(\$684.55 + \$684.74 + \$1,103.06 + \$683.88) \times 13$ periods)

Therefore, your case is RETURNED to NYSOH to recalculate your and your spouse's eligibility for financial assistance based on a two-person household, for a couple living in Greene County, NY, with an expected 2018 household income of \$41,030.99.

Decision

The October 31, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to recalculate your and your spouse's eligibility for financial assistance based on a two-person household, for a couple living in Greene County, NY, with an expected 2018 household income of \$41,030.99.

Effective Date of this Decision: February 02, 2018

How this Decision Affects Your Eligibility

You and your spouse were properly determined ineligible for the Essential Plan as of October 31, 2017.

Your case is being sent back to NYSOH to recalculate your and your spouse's eligibility for financial assistance based on the parameters above. NYSOH shall issue you a notice of eligibility determination.

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 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

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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The October 31, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to recalculate you and your spouse's eligibility for financial assistance based on a two-person household, for a couple living in Greene County, NY, with an expected 2018 household income of \$41,030.99.

You and your spouse were properly determined ineligible for the Essential Plan as of October 31, 2017.

Your case is being sent back to NYSOH to recalculate you and your spouse's eligibility for financial assistance based on the parameters above. NYSOH shall issue you a notice of eligibility determination.

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.

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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।

Français (French)

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

हिंदी (Hindi)

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

日本語 (Japanese)

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

नेपाली (Nepali)

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

Polski (Polish)

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

Twi (Twi)

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

(Urdu) اردو

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

Tiếng Việt (Vietnamese)

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

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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.