



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

Notice of Decision

Decision Date: January 11, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024056

[REDACTED]

[REDACTED]

On January 2, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's October 27, 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 Account ID at the top of this notice.

Legal Authority

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

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

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DEPARTMENT OF HEALTH
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Decision

Decision Date: January 11, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024056



Issue

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

Did NYSOH properly determine that you did not qualify to enroll in a qualified health plan with financial assistance outside of the open enrollment period for 2017?

Procedural History

On October 17, 2017, NY State of Health (NYSOH) received your updated application for financial assistance with health insurance.

On October 18, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium for a limited time, effective December 1, 2017. This notice directed you to submit income documentation to confirm your eligibility by January 15, 2018.

Also on October 18, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in an Essential Plan, effective December 1, 2017.

On October 26, 2017, you uploaded six documents to your NYSOH account.

Also on October 26, 2017, NYSOH validated the documentation you submitted and an updated application was submitted on your behalf, which included an updated annual income amount as calculated by NYSOH.

On October 27, 2017, NYSOH issued an eligibility determination notice stating that you were eligible newly eligible to purchase a qualified health plan at full cost through NYSOH, effective December 1, 2017. This notice further stating that you must confirm your health plan selection by December 25, 2017, and if you miss that date you cannot get coverage for 2017.

Also on October 27, 2017, NYSOH issued a plan disenrollment notice confirming your termination from the Essential Plan, effective December 1, 2017.

On November 6, 2017, you contacted NYSOH's Account Review Unit and requested an appeal of the eligibility determination insofar as you did not remain eligible for the Essential Plan.

On January 2, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and the hearing was held open until January 17, 2018, to allow you time to submit supporting documentation.

On January 2, 2018, you uploaded the necessary supporting documentation to your NYSOH account. The documentation was made part of the record as "Appellant's Exhibit #1," after which the record was closed.

Findings of Fact

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

- 1) The application that was submitted on October 17, 2017, lists an annual expected income of \$20,000.00 in earnings from your employment.
- 2) On October 26, 2017, you uploaded six paystubs to your NYSOH account.
- 3) Also on October 26, 2017, NYSOH validated your paystubs, changed your annual income from \$20,000.00 to \$71,201.00, and an updated application was submitted on your behalf.
- 4) You testified that the income amount NYSOH listed on the October 26, 2017 application was incorrect.
- 5) You testified that your employer pays the rent for your apartment as part of your employment agreement.
- 6) According to your testimony and supporting documents, your room and board is issued on your paystub, but then deducted out of your net pay.

- 7) You testified that you believe the room and board portion of your pay should not be included when calculating your annual income because you are not actually paid that money.
- 8) You submitted a paystub, dated December 26, 2017, which indicates that your annual gross income for 2017 was \$42,929.58.
- 9) This paystub also shows a deduction from your net pay for room and board in the amount of \$12,724.00.
- 10) You testified that you expect to file your 2017 federal tax return as single, and will claim no dependents on that tax return.
- 11) According to your NYSOH account and your testimony, you do not plan on taking any deductions on your 2017 tax return.
- 12) You reside in Tompkins County, New York.
- 13) You testified that you are unable to afford your health insurance premium without more financial assistance.
- 14) According to your NYSOH account, there have been no other major changes to your household since applying for health insurance in October 2017.

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).

De Novo Review

NYSOH Appeals Unit must review each appeal de novo and "consider all relevant facts and evidence adduced during the appeals process" (45 CFR §

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155.535(f)). “De novo review means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

Enrollment in a Qualified Health Plan

NYSOH must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan and enrollees may change qualified health plans (45 CFR § 155.410(a)(1)).

For the benefit year beginning on January 1, 2017, the annual open enrollment period began on November 1, 2016, and extended through January 31, 2017 (45 CFR § 155.410(e)(2)).

Special Enrollment Periods

After each open enrollment period ends, NYSOH provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a qualified health plan, and an enrollee may change their enrollment to another plan. This is generally permitted when one of the following triggering events occur:

- (1) The qualified individual or his or her dependent either:
 - (i) Loses minimum essential coverage.
 - (ii) Is enrolled in any non-calendar year group health plan or individual health insurance coverage, even if the qualified individual or his or her dependent has the option to renew such coverage.
 - (iii) Loses pregnancy-related coverage.
 - (iv) Loses medically needy coverage as described under section 1902(a)(10)(C) of the Social Security Act only once per calendar year.
- (2)(i) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care, or through a child support order or other court order.
 - (ii) the enrollee loses a dependent or is no longer considered a dependent through divorce or legal separation as defined by State law in the State in which the divorce or legal separation occurs, or if the enrollee, or his or her dependent, dies.
- (3) The qualified individual, or his or her dependent, becomes newly eligible for enrollment in a qualified health plan because he or she gains

citizenship, status as a national, or lawful present or is no longer incarcerated.

(4) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a qualified health plan is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, misconduct, or inaction of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities.

(5) The enrollee or, his or her dependent adequately demonstrates to NYSOH that the qualified health plan in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee;

(6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or change in eligibility for cost-sharing reductions.

(7) The qualified individual or enrollee, or his or her dependent, gains access to new qualified health plan as a result of a permanent move and either—

(i) Had minimum essential coverage for one or more days during the 60 days preceding the date of the permanent move, or

(ii) Was living outside of the United States or in a United States territory at the time of the permanent move;

(8) The qualified individual or dependent who gains or maintains status as an Indian may enroll in a qualified health plan or change from one plan to another, once per month.

(9) The qualified individual or enrollee, or his or her dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide;

(10) A qualified individual or enrollee—

(i) Is a victim of domestic abuse or spousal abandonment, including a dependent or unmarried victim within a household, is enrolled in minimum essential coverage and seeks to enroll in coverage separate from the perpetrator of the abuse or abandonment; or

(ii) Is a dependent of a victim of domestic abuse or spousal abandonment, on the same application as the victim, may enroll in coverage at the same time as the victim;

(11) A qualified individual or dependent—

(i) Applies for coverage through NYSOH during the annual open enrollment period or due to a qualifying event, is assessed as potentially eligible for Medicaid or Child Health Plus and is determined ineligible for Medicaid or Child Health Plus either after open enrollment has ended or more than 60 days after the qualifying event; or

(ii) Applies for coverage at their Local Department of Social Services or Human Resources Administration during the annual open enrollment period, and is determined ineligible for Medicaid or Child Health Plus after open enrollment has ended;

(12) The qualified individual or enrollee, or his or her dependent, adequately demonstrates to NYSOH that a material error related to plan benefits, service area, or premium influenced the qualified individual's or enrollee's decision to purchase a qualified health plan; or

(13) At the option of NYSOH, the qualified individual provides satisfactory documentary evidence to verify his or her eligibility for an insurance affordability program or enrollment following termination of enrollment due to a failure to verify such status within 90 days. NYSOH has not elected to adopt this subsection at this time.

(45 CFR § 155.420(d)).

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to select a qualified health plan (45 CFR § 155.420(c)(1)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you do not qualify to enroll in a qualified health plan with financial assistance outside of the open enrollment period.

On October 17, 2017, NYSOH received your application for financial assistance with health insurance, which listed an expected annual income of \$20,000.00.

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For individuals whose income is needed to calculate eligibility, NYOSH must request data that will allow NYOSH to verify the individuals' household income. If NYOSH cannot verify the income information required to determine eligibility, they must attempt to resolve the inconsistency by giving the applicant the opportunity to submit satisfactory documentary evidence.

NYSOH was unable to verify the income information that you had listed in your October 17, 2017 application. As a result, on October 18, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium for a limited time, effective December 1, 2017. This notice also directed you to submit income documentation to confirm your eligibility by January 15, 2018.

On October 26, 2017, you uploaded six paystubs to your NYSOH account. A NYSOH representative validated the income documentation and changed your expected annual income from \$20,000.00 to \$71,201.00, and an updated application was submitted on your behalf. Subsequently, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in a full pay qualified health plan, effective December 1, 2017. This notice further directed you to select a plan for enrollment by December 25, 2017 or you would not be able to enroll into coverage for 2017. The record indicates that you did not enroll into coverage by December 25, 2017. You testified that you did not enroll into a qualified health plan because you were unable to afford the health insurance premiums without additional financial assistance.

NYSOH provided an open enrollment period from November 1, 2016 until January 31, 2017. Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period to enroll in, or change to another health plan offered in NYSOH. To qualify for a special enrollment period, a person must experience a triggering event.

However, the record does not contain a notice of eligibility determination or redetermination on the issue of special enrollment period. Here, the lack of a notice of eligibility determination on the issue of special enrollment periods does not prevent the Appeals Unit from reaching the merits of the case or constitute material error. Under 45 CFR § 155.505(b), you are as entitled to appeal NYSOH failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. Since the Appeals Unit review of NYSOH determinations is performed on a de novo basis, no deference would have been granted to the eligibility determination notice had it been issued.

During the hearing, you testified that you were unable to afford your health insurance without additional financial assistance. You further testified that you were looking to be found eligible to enroll in the Essential Plan, or to be found eligible for additional financial assistance with health insurance. You submitted

your final paystub from 2017, which was dated December 26, 2017, and indicates that your gross year to date amount is \$42,929.00 (see Appellant's Exhibit #1). Therefore, based on the credible evidence on the record, the amount that was used in the October 26, 2017 application is not an accurate reflection of your expected annual income for 2017.

However, while a change in income, which results in a change of advanced premium tax credit or cost-sharing reduction eligibility, could result in a triggering event which could qualify you for a special enrollment period, this event only pertains to enrollees. The record indicates that you did not enroll into a qualified health plan by December 25, 2017. Therefore, there is no credible evidence in the record to allow the NYSOH's Appeals Unit to determine that you experienced a triggering event that would find you eligible for a special enrollment period as of the date of your hearing.

Further, the credible evidence of record indicates that, since the open enrollment period closed on January 31, 2017, no other triggering events have occurred that would qualify you for a special enrollment period.

Therefore, based on the credible evidence in the record, you do not qualify for a special enrollment period to select a health plan outside of the open enrollment period for 2017.

Since you do not qualify for a special enrollment period for 2017, the NYSOH's Appeals Unit will not address the merits as to whether NYSOH properly determined that you were ineligible for financial assistance with health insurance.

Decision

You do not qualify for a special enrollment period to select a health plan outside of the open enrollment period for 2017.

This Decision does not address the merits as to whether you were properly determined ineligible for financial assistance with health insurance.

Effective Date of this Decision: January 11, 2018

How this Decision Affects Your Eligibility

You do not qualify for a special enrollment period at this time for 2017 coverage.

This Decision does not address what coverage you may be eligible for in 2018. If you are interested in applying for financial assistance with health insurance for

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the 2018 coverage year, you should contact NYSOH at 1-855-355-5777 or update your NYSOH account online.

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 case 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.

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

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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

You do not qualify for a special enrollment period to select a health plan outside of the open enrollment period for 2017.

This Decision will not address the merits as to whether you were properly determined ineligible for financial assistance with health insurance.

You do not qualify for a special enrollment period at this time for 2017 coverage.

This Decision does not address what coverage you may be eligible for in 2018. If you are interested in applying for financial assistance with health insurance for the 2018 coverage year, you should contact NYSOH at 1-855-355-5777 or update your NYSOH account online.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

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

Español (Spanish)

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

中文 (Traditional Chinese)

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

Kreyòl Ayisyen (Haitian Creole)

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

中文 (Simplified Chinese)

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

Italiano (Italian)

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

한국어 (Korean)

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

Русский (Russian)

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

العربية (Arabic)

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

বাংলা (Bengali)

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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 b e tumi ama wo obi a okyer e 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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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