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

Notice of Decision

Decision Date: February 21, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000024531

[redacted]

[redacted]

On January 12, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 2, 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 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.

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Decision

Decision Date: February 21, 2018

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 (NYSOH) properly determine that you were eligible to enroll in the Essential Plan, effective December 1, 2017?
>
> Did NYSOH properly determine that you were not eligible for Medicaid, as of November 1, 2017?

Procedural History

On September 23, 2017, NYSOH issued a renewal notice, stating that it was time to renew your health insurance coverage through NYSOH.

On October 25, 2017, NYSOH received your updated application for financial assistance.

On October 26, 2017, NYSOH issued notice stating that you were conditionally eligible for Medicaid, effective December 1, 2017. The notice stated that you needed to provide documentation of your income by November 9, 2017 to confirm your eligibility.

Also on October 26, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in a Medicaid Managed Care (MMC) plan, beginning February 1, 2016.

On November 1, 2017, you uploaded documentation to your NYSOH account.

Also on November 1, 2017, NYSOH verified your income documentation and redetermined your eligibility.

On November 2, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for the Essential Plan with a $20.00 monthly premium, effective December 1, 2017.

Also on November 2, 2017, NYSOH issued a notice of disenrollment, stating that your MMC plan coverage would end, effective November 30, 2017, because you were no longer eligible to remain enrolled in your MMC coverage.

That same day, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Essential Plan beginning December 1, 2017.

On November 17, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal of that eligibility determination, insofar as you were not eligible for Medicaid. You also requested Aid to Continue, pending the outcome of your appeal.

On November 23, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid for a limited time, effective December 1, 2017. This was because you were granted Aid to Continue, pending the outcome of your appeal.

Also on November 23, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an MMC plan, beginning December 1, 2017. This was also because NYSOH granted you Aid to Continue, pending the outcome of your appeal.

On January 12, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open through February 9, 2018 to provide you with time to submit supporting documentation.

On February 7, 2018, you uploaded documentation to your NYSOH account. The record is now closed.

Findings of Fact

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

1) You testified that you expect to file your 2017 taxes with a tax filing status of single. You will claim no dependents on that tax return.

2) You updated your NYSOH application on October 25, 2017, and listed an expected annual income of $12,000.00. NYSOH asked you to submit documentation of your income to confirm this information.

3) On November 1, 2017, you uploaded a signed and dated copy of your 2016 federal income tax return, including schedules SE and C-EZ. The adjusted gross income listed on that income tax return was $9,621.00 [redacted]

4) Also on November 1, 2017, NYSOH reviewed your documentation and redetermined your eligibility. Your NYSOH account reflects that the NYSOH agent who updated your application on that day entered an expected annual income of $23,621.00.

5) On November 2, 2017, NYSOH issued an eligibility determination stating that you were eligible for the Essential Plan with a $20.00 monthly premium, effective December 1, 2017.

6) You testified that you called NYSOH to find out why you were not eligible for Medicaid.

7) You testified that you were told that your income was too high. You testified that the person you spoke to informed you of the income amount entered on your application, and that you told her that the number was much higher than what you actually earned.

8) You testified that you were unable to find out where NYSOH came up with this income figure, and you were advised to file an appeal.

9) You testified that you are self-employed and that you expect your 2017 income to be within a couple of thousand dollars of your 2016 income.

10) Your application states that you will be taking a deduction of approximately $732.00 for self-employment tax in 2017.

11) Your application states that you live in Monroe County.

12) After the hearing, the record was held open so that you could provide proof of your earnings and expenses for October, November and December, and a copy of your 2017 income tax return, if you were able to file it within the time frame for which the record was held open.

13) On February 7, 2018, you uploaded a signed, dated copy of your 2017 federal income tax return, including Schedules C and SE, showing total income of $11,168.00, and adjusted gross income of $10,379.00, after a

deduction of $789.00 for self-employment tax [redacted].

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 $11,88.00 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* www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf).

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).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were eligible for the Essential Plan, effective December 1, 2017.

You submitted income documentation in the form of your 2016 federal income tax return on November 1, in response to a request from NYSOH. NYSOH took that income documentation and used it to redetermine your eligibility that same day. The documentation you provided showed an adjusted gross income for 2016 of $9,621.00. NYSOH entered an income of $23,621.00 into your application.

You are in a one-person household. You expect to file your 2017 income taxes as single and will claim no dependents on that tax return.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was $11,880.00 for a one-person household. Since an annual household income of $23,621.00 is 198.83% of the 2016 FPL, NYSOH found you to be eligible for the Essential Plan.

However, the income documentation you submitted does not support NYSOH's determination that your expected annual income was $23,621.00. On October

25, 2017, you updated your NYSOH application and indicated that your expected gross annual income for 2017 was $12,000.00. When you were asked to submit documentation, you submitted a 2016 federal income tax return. NYSOH determined that this documentation was valid. As such, NYSOH should have utilized the adjusted gross income figure in this documentation - $9,621.00 – in making its determination. As there is nothing in the record to support NYSOH's determination that your expected annual income was $23,621.00, NYSOH improperly determined that you were eligible for the Essential Plan, effective December 1, 2017.

The second issue under review 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 NYSOH determined that your income was $23,621.00, which is 195.86% of the 2017 FPL, NYSOH found you to be ineligible for Medicaid on an expected annual income basis.

However, as discussed above, NYSOH's conclusion that your expected annual income for 2017 was $23,621.00 is unsupported by the record. Since NYSOH validated the 2016 federal income tax return that you submitted, NYSOH should have utilized the adjusted gross income figure in that tax return to determine your eligibility. As an income of $9,621.00 is 79.78% of the 2017 FPL, NYSOH should have determined that you were financially eligible for Medicaid.

As NYSOH's November 2, 2017 eligibility determination is based on inaccurate income information, it is RESCINDED.

After the hearing, you provided a signed, dated copy of your 2017 federal income tax return showing that your 2017 adjusted gross income was $10,379.00. Therefore, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance, effective December 1, 2017, based on a household of one with an expected annual income of $10,379.00.

NYSOH is directed to notify you in writing of your eligibility.

Decision

The November 2, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility, effective December 1, 2017, based on a one-person household, with an expected annual household income of $10,379.00.

NYSOH is directed to notify you in writing of your eligibility.

Effective Date of this Decision: February 21, 2018

How this Decision Affects Your Eligibility

NYSOH incorrectly determined your eligibility for financial assistance.

Your case is being sent back to NYSOH to redetermine your eligibility, effective December 1, 2017, based on the information in your NYSOH account, and the documentation you provided after the hearing.

You will receive a notice in writing informing you of your eligibility.

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
- By mail at:

  NY State of Health Appeals
  P.O. Box 11729
  Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The November 2, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility, effective December 1, 2017, based on a one-person household, with an expected annual household income of $10,379.00.

NYSOH is directed to notify you in writing of your eligibility.

NYSOH incorrectly determined your eligibility for financial assistance.

You will receive a notice in writing informing you of your eligibility.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

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).

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)

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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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).