



STATE OF NEW YORK
DEPARTMENT OF HEALTH
PO Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: February 27, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024551

[REDACTED]

[REDACTED]

On January 9, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 10, 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
PO 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(b).

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Decision

Decision Date: February 27, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024551



Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine you and your spouse were eligible to receive up to \$377.00 in advance payment of the premium tax credit and your children were eligible for Child Health Plus with a \$15.00 monthly premium, and not eligible for Medicaid, effective December 1, 2017?

Procedural History

On November 10, 2017, NYSOH issued an eligibility determination notice, based on a November 9, 2017 systematic eligibility redetermination, stating you and your spouse were eligible to receive up to \$377.00 per month in advance payments of the premium tax credit (APTC) and, if you and your spouse enrolled in a silver-level qualified health plan, eligible to receive cost-sharing reductions, both effective December 1, 2017. The notice also indicated your children were eligible for Child Health Plus with a \$15.00 monthly premium each, effective December 1, 2017. The notice indicated that you and your family were not eligible for the Essential Plan or Medicaid, because your annual household income was over the allowable limits for those programs.

Also on November 10, 2017, NYSOH issued a disenrollment notice stating the Essential Plan enrollment for you and your spouse would end on November 30, 2017, because you were no longer eligible to enroll in that plan.

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On November 20, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you and your family were not eligible for more financial assistance.

On November 28, 2017, NYSOH issued an eligibility determination notice stating you and your spouse were eligible for the Essential Plan for a limited time, until a decision was made on your appeal, effective December 1, 2017. You and your spouse were subsequently reenrolled into an Essential Plan.

On January 9, 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 to January 30, 2018 to allow you to submit supporting documents. As of January 30, 2018, the Appeals Unit had not received any documentation and none was viewable in your NYSOH account. Therefore, the record closed that day and this decision is based on the record as developed during the hearing.

Findings of Fact

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

- 1) An updated application was submitted on behalf of you and your family on May 19, 2017 listing your annual household income for 2017 as \$47,240.00 consisting of \$10,800.00 you would earn annually from your employment with [REDACTED] \$2,640.00 you earned from your employment with [REDACTED] between January 1, 2017 and March 24, 2017, and \$650.00 your spouse earned weekly from his employment with [REDACTED]
- 2) According to your account, NYSOH was unable to verify the income information in your application and you and your spouse were determined conditionally eligible for the Essential Plan with a \$20.00 monthly premium and your children were determined conditionally eligible for Child Health Plus with a \$9.00 monthly premium, pending receipt of documentation to verify your household income and confirm your family's eligibility.
- 3) You and your spouse enrolled in an Essential Plan and your children enrolled in a Child Health Plus plan, effective July 1, 2017.
- 4) On September 6, 2017, NYSOH received a copy of a "Check History Detail" for you from [REDACTED] showing the following information:
 - a. Pay date of July 7, 2017 in the gross amount of \$368.44.
 - b. Pay date of July 14, 2017 in the gross amount of \$203.74.

- c. Pay date of July 21, 2017 in the gross amount of \$295.00.
 - d. Pay date of July 28, 2017 in the gross amount of \$422.10.
 - e. Pay date of August 4, 2017 in the gross amount of \$387.45.
 - f. Pay date of August 11, 2017 in the gross amount of \$339.30.
- 5) Accounting to your account, NYSOH invalidated your income documentation, because no documentation of your spouse's income was submitted. Additional documentation of your household income was requested.
- 6) On November 8, 2017, NYSOH received a handwritten letter dated October 26, 2017 stating there was "no income" for you, [REDACTED] and that you had "stopped working" September 12, 2017. Also received were paystubs from "[REDACTED]" for your spouse showing the following:
- a. Pay date of September 29, 2017 with gross taxable wages of \$903.62 including overtime pay.
 - b. Pay date of October 6, 2017 with gross taxable wages of \$746.48.
 - c. Pay date of October 13, 2017 with gross taxable wages of \$646.08.
 - d. Pay date of October 20, 2017 with gross taxable wages of \$903.62, including overtime pay, with year to date income of \$9,846.63.
- 7) According to your account, NYSOH verified your income documentation and updated your application to add the amount of \$17,885.75 that NYSOH determined your spouse earned annually from [REDACTED] an employer not attested to in your prior applications. NYSOH added the \$17,885.75 to the \$33,800.00 annual amount of income attested to for your husband from "[REDACTED]" and the \$13,440 you attested to earning for the year in your prior application from [REDACTED] and [REDACTED] for a total household income of \$65,125.75.
- 8) Based on the recalculated 2017 household income amount, NYSOH determined you and your spouse were eligible to receive up to \$377.00 in APTC and your children were eligible for Child Health Plus with a \$15.00 monthly premium, effective December 1, 2017.
- 9) You testified you are seeking review of your whole family's eligibility insofar as your family is not eligible for Medicaid.

- 10) You testified that NYSOH calculation of your household income for 2017 was not accurate.
- 11) You testified that you did not work at [REDACTED] in 2017. You testified that you ended that job in November of 2016 and that you began working at [REDACTED] in January 2017. You testified that you do not know why your applications indicate that you earned income from [REDACTED] in 2017.
- 12) You testified that you worked at [REDACTED] until September 2017 and that you earned \$10,000 to \$11,000 in gross income from that job in 2017.
- 13) You also testified that you worked at [REDACTED] for four weeks from September to October 2017. You were unsure of the total gross income you earned from that job.
- 14) You testified that you also worked at [REDACTED] for four weeks from October to November 2017. You were unsure of the gross amount of income you earned from that job, but you testified that you made \$11.00 an hour and worked approximately 20 hours a week.
- 15) The record was left open until January 30, 2018 and you were directed to submit documentation showing the dates of employment and the year to date amount of gross income earned for each employment you earned income at in 2017. No documentation was submitted.
- 16) You testified that your spouse has not worked at [REDACTED] in three years. You testified that you are unsure of why that employer was identified in May 19, 2017 application.
- 17) You testified that your spouse worked at "[REDACTED]" from 2014 until July 19, 2017. You were unsure of the gross amount of income your spouse earned at that job in 2017.
- 18) You testified that your spouse started working at [REDACTED], which later changed its name to [REDACTED] in July of 2017. You testified your spouse earns \$16.25 per hour and works 40 hours per week.
- 19) You were directed to submit documentation from your spouse's prior job evidencing the end date of his employment and the gross amount of income earned at that job in 2017 as well as updated paystubs from his current job. No documentation was received.
- 20) You testified that you were not currently employed, that you were not receiving unemployment insurance benefits, and that you currently had no income.

- 21) According to your applications, you will file your 2017 tax return with a tax filing status of married filing jointly and you will claim three dependents. You testified that information was accurate.
- 22) You testified, and your applications indicate, you will not take any deductions on your 2017 tax return.
- 23) You testified, and your applications indicate, you reside in Monroe County.

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).

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)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

Medicaid Eligibility

Adults: 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)).

Children: A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York State Department of Social Services Administrative Directive 13 OHIP/ADM-03).

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 \$28,780.00 for a five-person household (82 Fed. Reg. 8831).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse were eligible to receive up to \$377.00 in advance payment of the premium tax credit and your children were eligible for Child Health Plus with a \$15.00 monthly premium, and not eligible for Medicaid, effective December 1, 2017.

An updated application was submitted on behalf of you and your family on May 19, 2017 listing your annual household income for 2017 as \$47,240.00 consisting of \$10,800.00 you would earn annually from your employment with [REDACTED], \$2,640.00 you earned from your employment [REDACTED] and \$650.00 your spouse earned weekly from his employment with [REDACTED]. According to your account, NYSOH was unable to verify the income information in your application and you and your spouse were determined conditionally eligible for the Essential Plan with a \$20.00 monthly premium and your children were determined conditionally eligible for Child Health Plus with a \$9.00 monthly premium, pending receipt of documentation to verify your household income and confirm your family's eligibility.

On September 6, 2017, you submitted a "Check History Detail" from [REDACTED] providing income information for the period between July 1, 2017 and August 15, 2017. As no documentation of your spouse's income was submitted at that time,

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your income information was invalidated and additional documentation was requested. On November 8, 2017, NYSOH received four weekly paystubs for your spouse from [REDACTED] for pay dates between September 29, 2017 and October 20, 2017. According to your account, since the paystubs submitted were from an employer not attested to in your application, NYSOH added the annual amount of income it calculated from the paystubs, \$17,885.75, to the \$33,800.00 annual amount of income listed for your spouse in your prior application from [REDACTED]. NYSOH determined your spouse's annual income for 2017, from both income sources, was \$51,685.75 for a total household income for 2017 of \$65,125.75, including the income you attested to earning yourself in the previous application.

NYSOH redetermined the eligibility of your family for financial assistance based on the recalculated household income amount and found you and your spouse eligible to receive up to \$377.00 in APTC and your children eligible for Child Health Plus with a \$15.00 monthly premium, effective December 1, 2017. You appealed that determination insofar as you and your family were not eligible for Medicaid.

At the hearing you testified that the information in your May 19, 2017 application was inaccurate insofar as you did not work at [REDACTED] in 2017. You testified that you worked for [REDACTED] from January 2017 until September 2017 and earned gross income of \$10,000 to \$11,000 from that job. It is noted that the only documentation of your income ever received by NYSOH was the "Check History Detail" from [REDACTED]s you submitted in September 2017 providing income information for the period between July 1, 2017 and August 15, 2017 only. This document contained no year to date income information.

Moreover, you submitted a letter to NYSOH dated October 26, 2017, indicating you had no income at that time and stating that you had "stopped working" September 12, 2017. However, you testified at the hearing that you worked for two different employers for approximately 8 weeks between September and November 2017. Given the inconsistency of your testimony with the information in your application and the documentary evidence in the record, you were directed to submit documentation of your income in 2017 including employment dates and year to date gross income information from each employer you worked for in 2017; however, no such documentation was received.

Additionally, you testified that the information in the May 19, 2017 application for your spouse was inaccurate insofar as he had not worked for the employer identified in that application, [REDACTED], in three years. You testified that your spouse worked for [REDACTED] from 2014 until July 19, 2017. You were unsure of the gross amount of income your spouse earned at that job in 2017, so you were directed to submit documentation of that income. You further testified that your spouse began working at his current job, [REDACTED], in July 14, 2017 where he earned \$16.25 per hour and worked 40 hours per week. It is

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noted that based on your testimony, your spouse would earn \$650.00 weekly at his current employment. However, this contradicts the information in the paystubs submitted in November 2017 indicating that between September 29, 2017 and October 20, 2017 your spouse received gross weekly income ranging between \$646.08 and \$903.62 with, at least, two of the weekly paystubs showing overtime income earned. Given the inconsistency of your testimony with the information in your application and the documentary evidence in the record, you were directed to submit documentation of your spouse's income in 2017, including year to date income earned at his prior employment and updated paystubs from his current employer. No such documentation was received.

It is concluded that there is insufficient evidence in the record of your household income in 2017. As such, there is no factual basis upon which the Appeals Unit can overturn NYSOH's November 10, 2017 eligibility determination notice. Accordingly, that determination is **AFFIRMED**.

It is noted that you testified that, at the time of the hearing, you were not working and were receiving no income. However, as discussed above, given the unreliability of your testimony and the lack of documentary evidence of your spouse's current income, there is insufficient evidence in the record to return your case to NYSOH for a redetermination of your family's current eligibility. If your income information has changed since your last application, you are reminded of your duty to update your NYSOH account to accurately report any such changes that may affect your family's eligibility within 30 days.

Decision

The November 10, 2017 eligibility determination notice is **AFFIRMED**.

Effective Date of this Decision: February 27, 2018

How this Decision Affects Your Eligibility

This decision does not change the eligibility of you or your family.

You and your spouse remain eligible to receive up to \$377.00 in monthly APTC.

Your children remain eligible for Child Health Plus with a \$15.00 monthly premium.

If your income information has changed since your last application, you are reminded of your duty to update your NYSOH account to accurately report any such changes that may affect your family's eligibility within 30 days.

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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 appeal 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 to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

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

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

Summary

The November 10, 2017 eligibility determination notice is AFFIRMED.

This decision does not change the eligibility of you or your family.

You and your spouse remain eligible to receive up to \$377.00 in monthly APTC.

Your children remain eligible for Child Health Plus with a \$15.00 monthly premium.

If your income information has changed since your last application, you are reminded of your duty to update your NYSOH account to accurately report any such changes that may affect your family's eligibility within 30 days.

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 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.

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.