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

Notice of Decision

Decision Date: March 01, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000024598

[redacted]

Dear [redacted],

On January 12, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's October 18, 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).

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: March 01, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000024598

[redacted]

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 receive up to $316.00 per month in advance payments of the premium tax credit (APTC) and ineligible for cost-sharing reductions (CSR), the Essential Plan, or Medicaid, effective January 1, 2018?

Procedural History

On September 6, 2017, NYSOH received your updated application for financial assistance with your health insurance.

On September 7, 2017, NYSOH issued a notice of eligibility determination stating you were eligible to receive up to $230.00 in APTC, effective October 1, 2017. That notice also stated you were not eligible for CSR, the Essential Plan or Medicaid, because your household income was over the allowable income limit for those programs.

Also on September 7, 2017, NYSOH issued a notice of enrollment, based on your September 6, 2017 plan selection, confirming your enrollment in a qualified health plan (QHP) with APTC applied, effective October 1, 2017.

On October 28, 2017, NYSOH issued a notice stating your coverage was being automatically renewed for the 2018 coverage year. The notice indicated that, based on your September 6, 2017 application, you were eligible to receive up to $316.07 in APTC, effective January 1, 2018. The notice indicated that you were

being re-enrolled in the same QHP for 2018. The notice further stated that you could confirm or change the amount of APTC applied to your premium by logging into your online account and updating your tax credit after November 15, 2017.

On November 18, 2017, NYSOH issued an enrollment notice confirming your enrollment in a QHP, with $230.00 APTC applied to your monthly premium, effective January 1, 2018.

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

On November 21, 2017, NYSOH issued a disenrollment notice stating your QHP enrollment for 2018 would end, effective January 1, 2018, because you requested to terminate that coverage.

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 to January 26, 2018 to allow you to submit supporting documents. On January 25, 2018 a document was uploaded to your NYSOH account and 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) According to your account, you updated your application on October 22, 2014, at which time you attested to annual income $12,799.99. At that time, you were determined eligible for Medicaid.

2) You next updated your application on September 6, 2017, listing annual income of $34,220.01 consisting of $1,380.00 you earned biweekly at your job with the County of Clinton and $500.00 you earned from "[redacted]" with a $1,200 annual deduction for student loan interest and $960.00 annual deduction for retirement contributions.

3) Your application indicated that you would file your 2017 tax return with a tax filing status of single and you would claim no dependents. You testified that information was accurate

4) Based on your September 9, 2017 application, NYSOH determined you eligible to receive tax credit of up to $230.00 monthly, effective October 1, 2017.

5) You were disenrolled from your Medicaid Managed Care plan, effective September 30, 2017 and enrolled into a qualified health plan with $230.00 of APTC applied, effective October 1, 2017.

6) According to your account, on October 8, 2017, NYSOH automatically renewed your coverage for the 2018 coverage year by redetermining your eligibility based on the information in your September 6, 2017 application.

7) NYSOH determined you eligible to receive up to $316.00 in APTC, effective January 1, 2018, and automatically reenrolled you in your current QHP for the 2018 coverage year.

8) The enrollment notice issued by NYSOH on November 18, 2017 confirmed your enrollment in your QHP for 2018 and indicated that only $230.00 of the $316.00 of APTC you were eligible for was being applied to your monthly premium.

9) According to your account, on November 20, 2017, you contacted NYSOH and requested to cancel your 2018 QHP enrollment.

10) You appealed insofar as you were not eligible for the Essential Plan or Medicaid.

11) You testified that you are not sure if the annual income amount of $34,220.01 listed in your September 6, 2017 application was accurate.

12) You testified that you currently work at the Clinton County nursing home part-time where you are paid biweekly, you earn $23.25 per hour, and you work between 15 and 22 hours per week, sometimes more. You testified that you worked at that job throughout all of 2017.

13) You testified that you are also currently employed at "[redacted]." You testified that this job is identified in your application as "[redacted]." You testified that you worked at that job for all of 2017 and you are not sure why your application indicates you only earned income at that job between August 20, 2017 and September 2, 2017 in the amount of $500.00. You testified that you are paid biweekly and earn $7.50 per hour at this job plus tips.

14) You testified that you expect to make the same amount of income in 2018 as you did in 2017.

15) You were directed to submit the paystubs for the final paycheck received in 2017 from each of your jobs to show the year to date income earned at each job.

16) On January 25, 2018, one paystub was uploaded to your NYSOH account from Clinton County Treasurer for a pay date of January 12, 2018. That paystub showed gross income in the amount of $2,113.65 for that pay period. Your year to date earnings were the same as the amount of income shown for that pay period. No additional documentation was received.

17) You testified, and your applications indicate, you live in Clinton County.

18) You testified, and your account confirms, you are not currently enrolled in health coverage.

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

Applicable Law and Regulations

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a QHP and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (*see* 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The maximum amount of APTC that can be authorized equals:

1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NYSOH in the county where the taxpayer resides

minus

2) the taxpayer's expected contribution amount

(*see* 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2017 is set by federal law at 2.04% to 9.69% of household income (26 USC § 36B(b)(3)(A), IRS Revenue Procedure (RP) 2016-24).

In an analysis of APTC eligibility, the determination is based on the applicable FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). 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).

For annual household income in the range of at least 250% but less than 300% of the 2016 FPL, the expected contribution is between 8.10% and 9.56% of the household income (26 CFR § 1.36B-3, IRS RP 2016-24).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on NYSOH application) with their actual income (stated on federal income tax return). Those who take less tax credit in advance than they can claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(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 $11,880.00 for a one-person household (81 Federal Register 4036).

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 Federal Register 8831, 8832).

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 finds 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.

Legal Analysis

The issue is whether NYSOH properly determined that you were eligible to receive up to $316.00 per month in APTC and ineligible for CSR, the Essential Plan, or Medicaid, effective January 1, 2018.

On September 6, 2017, you updated your application listing your annual income as $34,220.01 consisting of $1,380.00 you earned biweekly at your job with the [redacted] and $500.00 you earned from "[redacted]" with a $1,200 annual deduction for student loan interest and $960.00 annual deduction for retirement contributions. Although you testified that you were unsure if the

income information listed in that application was accurate, NYSOH relied upon that information in determining your eligibility for financial assistance with health insurance.

Based on the information in the September 6, 2017 application, NYSOH determined you eligible to receive a tax credit of up to $230.00 monthly, effective October 1, 2017. You were disenrolled from your Medicaid Managed Care plan, effective September 30, 2017 and enrolled into a qualified health plan with $230.00 of APTC applied, effective October 1, 2017.

According to your account, on October 8, 2017, NYSOH automatically renewed your coverage for the 2018 coverage year by redetermining your eligibility based on the information in your September 6, 2017 application. NYSOH determined you eligible to receive up to $316.00 in APTC, effective January 1, 2018. You appealed insofar as you were not eligible for the Essential Plan or Medicaid.

As discussed above, NYSOH determined your eligibility based on the information you provided in your September 6, 2017 application, although you testified you were not sure that information was accurate. Moreover, you testified that you worked at "[redacted]" for all of 2017, identified in your application as "[redacted]", even though your application indicated you only worked at that job between August 20, 2017 and September 2, 2017 and earned $500.00. Given the inconsistency of your testimony with the information in your application, you were directed to submit paystubs for the final paycheck received in 2017 from each of your jobs to show the year to date income earned at each job, since you testified that you expected to earn the same amount of income in 2018 as you did in 2017.

The only documentation of your income received was a paystub from [redacted] dated January 12, 2018 showing biweekly income of $2,113.65. Since that paystub was for a pay date in 2018, it did not show year to date income received in 2017; thus, it did not comply with the document request. However, it is noted that the paystub submitted showed biweekly income from that job greater than the amount attested to in your September 6, 2017 application. Additionally, since no documentation was received regarding the amount of income you received in 2017 from your second job at "[redacted]," the Appeals Unit is without sufficient evidence of your income to review your eligibility for financial assistance.

It is concluded that there is insufficient evidence in the record of your household income for 2018. As such, there is no factual basis upon which the Appeals Unit can overturn NYSOH's October 18, 2017 eligibility determination notice, stating you were eligible to receive up to $316.00 per month in APTC and ineligible for CSR, the Essential Plan, or Medicaid, effective January 1, 2018. Accordingly, that determination is AFFIRMED.

Decision

The October 18, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: March 01, 2018

How this Decision Affects Your Eligibility

You remain eligible for up to $316.00 in APTC and ineligible for CSR, the Essential Plan, and Medicaid.

PLEASE NOTE: Any APTC you receive for 2018 must be reconciled on your 2018 federal income tax return. Be advised that enrollees who take more tax credit in advance than they eventually claim on their tax return for that year will owe the difference as additional income tax.

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.

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
  PO Box 11729
  Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The October 18, 2017 eligibility determination notice is AFFIRMED.

You remain eligible for up to $316.00 in APTC and ineligible for CSR, the Essential Plan, and Medicaid.

PLEASE NOTE: Any APTC you receive for 2018 must be reconciled on your 2018 federal income tax return. Be advised that enrollees who take more tax credit in advance than they eventually claim on their tax return for that year will owe the difference as additional income tax.

Legal Authority

We are sending you this notice in accordance with 45 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).

A Copy of this Decision Has Been Provided To:

[redacted]

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).