



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

Notice of Decision

Decision Date: February 6, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025097

[REDACTED]

[REDACTED]

On January 25, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 23, 2017 eligibility determination notice.

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

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

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

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the NY State of Health Account ID at the top of this notice.

Legal Authority

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

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

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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: February 6, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025097

[REDACTED]

Issue

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

Did NY State of Health (NYSOH) properly determine that you were not eligible for Medicaid as of December 1, 2017?

Procedural History

According to your NYSOH account, and pursuant to NYSOH's request, you submitted your long-term disability benefit monthly statement from [REDACTED] dated October 21, 2017 to NYSOH on November 18, 2017 (see Document [REDACTED]). This document was validated by NYSOH on November 22, 2017.

On November 23, 2017, NYSOH issued an eligibility determination notice stating that you were no longer eligible for Medicaid, effective December 1, 2017, because your income of \$27,999.96 was over the allowable income limits for that program. The notice further stated that NYSOH will continue your Medicaid coverage until March 31, 2018, under its continuous coverage policy.

On November 30, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your Medicaid coverage.

On December 6, 2017, you submitted a letter from [REDACTED] dated December 4, 2017, stating that your long-term disability benefits are not taxable. You also submitted a self-attestation letter, dated December 5, 2017, stating that these

benefits are your sole source of income ([REDACTED]
[REDACTED]

On January 25, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) According to your NYSOH account and your testimony, if you choose to file your 2017 income tax return, you expect to file it with a tax filing status of single. You will claim no dependents on that tax return.
- 2) You are seeking health insurance for yourself.
- 3) The application that was submitted on November 22, 2017, listed annual household income of \$27,999.96 consisting of \$27,999.96 unearned income received from your long-term disability benefits. You testified that although this is correct, your income for purposes of your eligibility determination through NYSOH should be \$0.00.
- 4) You submitted a letter, dated December 5, 2017, stating that your long-term disability benefits are your sole source of income [REDACTED] [REDACTED] [REDACTED]. You testified this information is accurate.
- 5) You submitted your long-term disability benefit monthly statement from [REDACTED] dated October 21, 2017, which shows you receive a monthly long-term disability benefit of \$2,333.33, which if multiplied by 12 months equals an annual income of \$27,999.96 ([REDACTED]).
- 6) You also submitted a letter from Unum, dated December 4, 2017, stating that your long-term disability benefits are not taxable ([REDACTED]) [REDACTED].
- 7) You testified that you paid the premiums for the insurance policy from which you are currently receiving your long-term disability benefits.
- 8) Your application states that you will not be taking any deductions on your 2017 tax return.
- 9) According to your NYSOH Account and your testimony, you live in [REDACTED] NY.

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

Applicable Law and Regulations

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).

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).

Gross Income

Gross Income is defined as all income from whatever source derived, including but not limited to compensation, business income, interest, dividends, annuities, alimony, pensions, life insurance income, and income from an estate or trust (see 26 USC § 61).

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)).

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Insurance Benefits/Personal Injury Benefits

Generally, gross income does not include “amounts received through accident or health insurance (or through an arrangement having the effect of accident or health insurance) for personal injuries or sickness (other than amounts received by an employee, to the extent such amounts (A) are attributable to contributions by the employer which were not includible in the gross income of the employee, or (B) are paid by the employer” (26 USC § 104(a)(3)). Specifically, long-term disability benefits paid for by the employee in the plan year for which the employee becomes disabled are excludable from the employee’s gross income under 26 USC § 104(a)(3) (see IRS Rev. Rul. 2004-55).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were ineligible for Medicaid as of December 1, 2017.

According to your NYSOH account and your testimony, if you file your 2017 income tax return, you expect to file your 2017 taxes with a tax filing status of single. You will claim no dependents on that tax return. Therefore, for purposes of this analysis, you are in a one-person household.

The application that was submitted on November 22, 2017, listed an annual household income of \$27,999.96 and the eligibility determination relied upon that information. You testified this although this was correct, your income for purposes of your eligibility determination should be \$0.00.

You further testified, and submitted documentation to show, that this income consists solely of \$27,999.96 in unearned income received from your long-term disability benefits and that these benefits are not taxable (██████████ ██████████ ██████████). You also credibly testified that you paid the premiums for the insurance policy from which you are currently receiving your long-term disability benefits.

Generally, gross income as defined by the IRC includes any and all income from whatever source derived. However, NYSOH bases its eligibility determinations based on a person’s modified adjusted gross income (MAGI) as defined by the Internal Revenue Code. In certain instances, some forms of income, such as Social Security Disability Benefits and foreign income of US Citizens, even if not taxable, are included in a person’s income for purposes of qualifying for healthcare subsidies or financial assistance through NYSOH. However, long-term disability benefits paid for by the employee in the plan year for which the employee becomes disabled are excludable from the employee’s gross income.

In your case, your sole income is a long-term disability benefit that was derived from a plan that you paid for yourself and is not taxable. As such, your long-term disability benefit income is not to be included in MAGI income for purposes for determining your eligibility.

Since you have no other source of income other than your long-term benefits income, you have no income for purposes of this analysis.

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 \$0.00 is 0% of the 2017 FPL, NYSOH improperly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since your current income documentation reflects your calculated 2017 expected MAGI income is \$0.00, the November 22, 2017 eligibility determination notice is not supported by the record and must be RESCINDED.

As such, your case is RETURNED to NYSOH to rerun your application to re-ascertain your eligibility for financial assistance with health insurance as of November 22, 2017, and to apply it effective December 1, 2017, using a one-person household with an expected annual income of \$0.00, for an individual living in Dutchess County, New York.

Decision

The November 22, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to rerun your application to re-ascertain your eligibility for financial assistance with health insurance as of November 22, 2017, and to apply it effective December 1, 2017, using a one-person household with an expected annual income of \$0.00, for an individual living in Dutchess County, New York. NYSOH will notify you of its redetermination

Effective Date of this Decision: February 6, 2018

How this Decision Affects Your Eligibility

NYSOH improperly determined that you were ineligible for Medicaid as of your November 22, 2017 application.

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).

Your case is being returned to NYSOH to redetermine your eligibility for financial assistance to be applied as of December 1, 2017. NYSOH will notify you once completed.

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:

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

- By 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 22, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to rerun your application to re-ascertain your eligibility for financial assistance with health insurance as of November 22, 2017, and to apply it effective December 1, 2017, using a one-person household with an expected annual income of \$0.00, for an individual living in Dutchess County, New York. NYSOH will notify you of its redetermination

NYSOH improperly determined that you were ineligible for Medicaid as of your November 22, 2017 application.

Your case is being returned to NYSOH to redetermine your eligibility for financial assistance to be applied as of December 1, 2017. NYSOH will notify you once completed.

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।

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

Polski (Polish)

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

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&etumi ama wo obi a okyerε 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.

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