



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

Notice of Decision

Decision Date: March 20, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025227

[REDACTED]

Dear [REDACTED]

On February 8, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 29, 2017 and December 1, 2017 eligibility determination notices.

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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DEPARTMENT OF HEALTH
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Decision

Decision Date: March 20, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025227

[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 and your spouse were not eligible for Medicaid, effective January 1, 2018?

Procedural History

On November 22, 2017, you applied for health insurance and financial assistance through NYSOH.

On November 23, 2017, NYSOH issued an eligibility determination notice stating that you were conditionally eligible for Medicaid, effective September 1, 2017, and your spouse was fully eligible for Medicaid, effective November 1, 2017. You were directed to provide proof of your Social Security number by February 19, 2018.

Also on November 23, 2017, NYSOH issued a notice stating that additional information was required to determine eligibility for Medicaid coverage for your spouse for September 2017. You were directed to provide proof of income for September 2017 by December 7, 2017.

On November 27, 2017, an application was run on your behalf.

On November 28, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective November 1, 2017, and that your spouse remained eligible for Medicaid, effective November 1, 2017.

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Also on November 28, 2017, an updated application was run on your behalf.

On November 29, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for the Essential Plan, effective January 1, 2018, and that your spouse was eligible to purchase a qualified health plan at full cost, effective January 1, 2018. The notice further stated that you and your spouse were no longer eligible for Medicaid because your income was over the allowable limits for that program.

On November 30, 2017, an application was run on your behalf.

On December 1, 2017, NYSOH issued an eligibility determination notice, stating that you were eligible for the Essential Plan, effective January 1, 2018, and that your spouse was eligible to purchase a qualified health plan at full cost, effective January 1, 2018. The notice further stated that you and your spouse were no longer eligible for Medicaid because your income was over the allowable limits for that program.

On December 4, 2017, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination notice insofar as you and your spouse were not determined eligible for Medicaid.

On December 16, 2017, NYSOH issued a notice stating that you and your spouse were eligible for Medicaid for a limited time, effective January 1, 2018. This was because you had been granted Aid to Continue pending the outcome of your appeal.

On February 8, 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 February 15, 2018, to allow you time to submit supporting documents.

On February 8, 2018, NYSOH received your supporting documents by upload. The documents were made part of the record as Appellant's Exhibit #1. The record remained open until February 15, 2018, at which time the record was closed with no additional documentation provided.

Findings of Fact

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

- 1) You testified that you and your spouse expect to file your tax return for 2018 with a tax filing status of married filing single. You will claim no dependents on that tax return, and your spouse will claim one dependent on their tax return.

- 2) You are seeking health insurance for you and your spouse. Specifically, you want both of you to be determined eligible for Medicaid.
- 3) The application that was submitted on November 22, 2017, listed an annual household income of \$0.00.
- 4) The applications that were submitted on November 28, 2017 and November 30, 2017, listed annual household income of \$32,666.13, consisting of income your spouse earns from his employment.
- 5) According to your NYSOH account, on November 28, 2017, a NYSOH representative entered into your application an earned income for your spouse of \$33,666.13, consisting of \$14,089.13 in income from [REDACTED] and \$18,577.00 in income from [REDACTED]. You testified that these amounts were not correct.
- 6) You testified that you have no income, and that your last day of work was when the [REDACTED] ended in June 2017.
- 7) On November 2, 2017, you submitted a letter dated October 4, 2017 from [REDACTED], which states that you are currently employed at the [REDACTED] as a [REDACTED] [REDACTED] and have served in that position since March 23, 2015. The letter also states that your last paycheck was June 29, 2017 (see Document [REDACTED]).
- 8) You submitted four of your paystubs from [REDACTED]
 - a. dated June 15, 2017 for a gross amount of \$438.51;
 - b. dated June 26, 2017 for a gross amount of \$589.48;
 - c. dated June 29, 2017 for a gross amount of \$426.29; and,
 - d. dated October 16, 2017 for a gross amount of \$301.51.
- 9) Your October 16, 2017 paystub shows year to date earnings of \$10,793.24 (see Document [REDACTED]).
- 10) You submitted your payroll register from the [REDACTED] [REDACTED] dated November 22, 2017, which states that your year to date earnings were \$10,793.24 (see Document [REDACTED]).
- 11) You testified that your spouse has no income, and is out of work due to [REDACTED]. You testified that the last paycheck he received was dated October 31, 2017, and that you were unable to provide a letter from his employer because he did not have a specific supervisor.
- 12) You submitted three of your spouse's paystubs from the [REDACTED]

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- a. dated September 15, 2017 for a gross amount of \$136.59;
- b. dated October 16, 2017 for a gross amount of \$656.78; and,
- c. dated October 31, 2017 for a gross amount of \$431.33.

13) Your spouse's October 31, 2017, paystub shows year to date earnings of \$11,362.75 (see Document [REDACTED]).

14) You submitted your spouse's payroll register from the [REDACTED], dated November 22, 2017, which states that his year to date earnings were \$11,362.75 (see Document [REDACTED]).

15) On July 31, 2017, you submitted two of your spouse's paystubs from [REDACTED]:

- a. dated July 21, 2017 for a gross amount of \$1,037.00; and,
- b. dated July 28, 2017 for a gross amount of \$476.00.

16) You submitted form [REDACTED], dated December 27, 2017, which states that your spouse had been determined exempt from participating in temporary [REDACTED] work activities, effective December 27, 2017, because according to medical evidence, he was currently unable to work due to [REDACTED] (see Document [REDACTED]).

17) Your application states that you will not be taking any deductions on your 2018 tax return.

18) Your application states that you and your spouse 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)).

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In the case of a married couple living together, each spouse is included in the Medicaid household of the other spouse, regardless of whether they expect to file a joint tax return (42 CFR § 435.603 (f)(4)).

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 \$16,240.00 for a two-person household and \$20,420.00 for a three-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).

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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse were not eligible for Medicaid, effective January 1, 2018.

You and your spouse each expect to file your 2018 income tax return as married filing single, and your spouse will claim one dependent on his tax return. For purposes of determining Medicaid eligibility, you are in a three-person household: yourself, your spouse, and your child. Although you and your spouse do not plan to file a joint tax return, you and your spouse are counted as part of each other's household because you are married and reside together.

On November 28, 2017, NYSOH validated the income documentation you submitted as satisfactory proof of income and an application for financial

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assistance was run on your behalf. The NYSOH representative entered into your application an earned income for your spouse of \$33,666.13, consisting of \$14,089.13 in income from [REDACTED] and \$18,577.00 in income from [REDACTED]. Your income was entered at \$0.00. This resulted in an annual household income of \$33,666.13. A systematic update was made to your account on November 30, 2017, using the same income information.

Based on those applications, NYSOH issued eligibility determination notices on November 29, 2017 and December 1, 2017, stating that you were eligible for the Essential Plan, and your spouse was eligible to purchase a qualified health plan at full cost, effective January 1, 2018.

Although your income was properly determined to be \$0.00 in those applications, there is no indication in the record as to how NYSOH determined that your spouse's annual expected income is \$33,666.13, based on the documentation you submitted.

NYSOH bases its eligibility determinations on modified adjusted gross income, which is adjusted gross income increased by any income that was excluded for United States citizens or residents living abroad, tax-exempt interest received or accrued, and Social Security benefits that were excluded from gross income. Adjusted gross income means gross federal taxable income minus certain specific deductions.

Based on the income documentation you submitted in November 2017, as of November 22, 2017, your spouse's year to date earnings at [REDACTED] totaled \$11,362.75. This is the same amount as listed on your spouse's October 31, 2017 paystub, so it is reasonable to conclude that he did not work between October 31, 2017 and November 22, 2017. There is no indication in the record as to how NYSOH arrived at its determination that your spouse's annual expected income with [REDACTED] was \$14,089.13.

Furthermore, you credibly testified that your spouse currently has no income and has been unable to work since October 2017 due to [REDACTED]. In support of your testimony, you submitted form [REDACTED], dated December 27, 2017. That form states that your spouse had been determined exempt from participating in temporary [REDACTED] work activities effective December 27, 2017, because according to medical evidence, he was currently unable to work due to [REDACTED].

Additionally, the NYSOH representative appeared to base your spouse's income in part on paystubs you submitted to your account in July 2017 from [REDACTED], which is well outside of the four most recent paystubs submitted. The

NYSOH representative included this income despite your application stating that your spouse was no longer working.

Based on the record as a whole, including your credible testimony and supporting documentation, it is reasonable to conclude that your and your spouse's annual household income at the time of the November 28, 2017 and November 30, 2017 applications was \$0.00, as neither one of you were working.

Since the November 29, 2017 and December 1, 2017 eligibility determination notices are not supported by the documentation you provided, nor by your credible testimony during the hearing, they are RESCINDED.

Your case is RETURNED to redetermine your and your spouse's eligibility for financial assistance, as of January 1, 2018, with an annual expected income of \$0.00 for a household size of three, for a couple residing in New York County.

Decision

The November 29, 2017 eligibility determination notice is RESCINDED.

The December 1, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to redetermine your and your spouse's eligibility for financial assistance, as of January 1, 2018, with an annual expected income of \$0.00 for a household size of three, for a couple residing in New York County.

Effective Date of this Decision: March 20, 2018

How this Decision Affects Your Eligibility

This is not a final determination of your and your spouse's eligibility.

Your case is being sent back to redetermine your and your spouse's eligibility based on the completed record and the parameters noted above.

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

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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 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:

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NY State of Health Appeals
P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The November 29, 2017 eligibility determination notice is RESCINDED.

The December 1, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to redetermine your and your spouse's eligibility for financial assistance, as of January 1, 2018, with an annual expected income of \$0.00 for a household size of three, for a couple residing in New York County.

This is not a final determination of your and your spouse's eligibility.

Your case is being sent back to redetermine your and your spouse's eligibility based on the completed record.

This is not a final determination of your and your spouse's eligibility.

Your case is being sent back to redetermine your and your spouse's eligibility based on the completed record and the parameters noted above.

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।

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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 איך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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