



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

Notice of Decision

Decision Date: February 13, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025281 and AP000000025323

[REDACTED]

[REDACTED]

On February 7, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 17, 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.

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Decision

Decision Date: February 13, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025281 and AP000000025323

[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 financial assistance as of January 1, 2018?

Procedural History

On November 17, 2017, NYSOH issued an eligibility determination notice based on the information contained in the November 16, 2017 application, stating that you were eligible to purchase a qualified health plan at full cost, effective January 1, 2018. The notice stated that you did not qualify for the Essential Plan or to receive a tax credit to help pay for the cost of coverage because the income you provided in your application is over \$48,240.00, which is above the allowable income limit for those programs.

On December 4, 2017, you contacted NYSOH's Account Review Unit and submitted a written appeal request of that eligibility determination as it related to your denial of financial assistance ([REDACTED]).

On February 5, 2018, you submitted a letter, dated February 1, 2017 entitled "Documents in Support of my Appeal: Letter and Tax Form Copy" and the first page of your 2016 federal income tax return ([REDACTED]).

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On February 7, 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, you expect to file your 2018 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 2) You are seeking health insurance with financial assistance for yourself.
- 3) The application that was submitted on November 16, 2017 listed annual household income of \$52,805.00, consisting of \$33,630.00 in income you receive in IRA distributions, and \$19,175.00 you receive in retirement pension benefits. You testified that this is correct and that you expect no changes in income in 2018.
- 4) You testified that you believe that your IRA distributions should not be included as income for purposes of determining your eligibility for a health care subsidy.
- 5) On February 5, 2018, you submitted the first page of your 2016 federal income tax return [REDACTED]. This document shows that in 2016 you received \$33,630.00 in taxable IRA distributions, \$19,175.00 in taxable pension income and \$20,000 in non-taxable annuity income. You testified that the annuity income was income received from municipal bonds that are not taxable. You further testified that your income will remain the same throughout 2018.
- 6) According to your NYSOH account, and your testimony, you will not be taking any deductions on your 2018 tax return.
- 7) According to your NYSOH account, and your testimony, you live in Westchester County, New York.

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

Applicable Law and Regulations

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 federal taxable 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)).

Individual Retirement Accounts

Generally, gross income does include any and all distributions or payments from an individual retirement accounts (IRA) unless the distribution is from a “Roth IRA” or a distribution that is rolled over into another IRA account within 60 days of that distribution (see 26 USC § 408 (d)(1); and (3); see also 26 USC § 3405 (2)(ii)).

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 qualified health plan 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 qualified health plan, 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)).

In an analysis of APTC eligibility, the determination is based on the 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 2017 FPL, which is \$12,060.00 for a one-person household (82 Federal Register 8831).

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

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application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they 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).

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 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 2017 FPL, which is \$12,060.00 for a one-person household (82 Fed. Reg. 8831).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were not eligible for financial assistance as of January 1, 2018.

The application that was submitted on November 16, 2017 listed an annual household income of \$52,805.00 and the eligibility determination relied upon that information. Although you testified that this amount was correct, you believe that your IRA distributions of \$33,630.00 should not be included as income for purposes of determining your eligibility for a health care subsidy.

Generally, gross income as defined by the Internal Revenue Code 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), also as defined by the Internal Revenue Code.

In certain instances, some forms of non-taxable income, such as Social Security Disability Benefits and foreign income of US Citizens, are included in a person's income for purposes of qualifying for healthcare subsidies or financial assistance through NYSOH.

In your case, you submitted as evidence a copy of the first page of your 2016 federal income tax return which shows that your \$33,630.00 IRA distribution was taxable income ([REDACTED]). Because you were not taxed on your contributions to your IRA in the years those contributions were made (and therefore, not included in your gross income at that time), your IRA distributions are taxable and are included in your MAGI for eligibility determination purposes. As such, NYSOH properly determined your income to be \$52,805.00 based on the information in your application.

According to your NYSOH account and your testimony, you expect to file your 2018 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.

Advance payment of the premium tax credit is available to a person who has a household MAGI income no greater than 400% of the FPL. Likewise, the Essential Plan is available to a person who has a household income no greater than 200% of the FPL. In an evaluation for eligibility for those programs, an annual income of \$52,805.00 is 437.85% of the 2017 FPL of \$12,060.00 for a one-person household.

Since a household income of \$52,805.00 is 437.85% of the applicable FPL for 2017 for a one-person household, NYSOH correctly found you to be ineligible for financial assistance, effective January 1, 2018.

Therefore, the November 17, 2017 eligibility determination notice stating that you do not qualify for the Essential Plan or to receive a tax credit to help pay for the cost of coverage is correct and must be AFFIRMED.

Decision

The November 17, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: February 13, 2018

How this Decision Affects Your Eligibility

You remain ineligible for financial assistance through NYSOH in 2018.

If You Disagree with this Decision (Appeal Rights)

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).

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

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- By fax: 1-855-900-5557

Summary

The November 17, 2017 eligibility determination notice is AFFIRMED.

You remain ineligible for financial assistance through NYSOH in 2018.

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 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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