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

Notice of Decision

Decision Date: April 17, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000025366

[redacted]

[redacted]

On February 21, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's denial of your request to enroll into health insurance through NYSOH.

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 number 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).

This page intentionally left blank.

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

Decision

Decision Date: April 17, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP0000000025366

[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, [redacted] were ineligible for health insurance coverage through NYSOH, as of November 24, 2017?

Procedural History

On September 21, 2017, NYSOH issued a renewal notice stating that it was time for you to renew your health insurance coverage for the upcoming coverage year. This notice further stated that based on federal and state data sources, NYSOH could not determine whether you qualified for financial help paying for your health insurance coverage. The notice directed you to update your NYSOH account between October 16, 2017 and November 15, 2017, or you could lose your coverage and financial assistance.

No updates were made by November 15, 2017.

On November 16, 2017, your household's eligibility was redetermined.

On November 17, 2017, NYSOH issued a notice stating that you were newly eligible to purchase a qualified health plan (QHP) at full cost, effective December 1, 2017. The notice stated you were not eligible for Medicaid, Child Health Plus, the Essential Plan, or to receive advance payments of the premium tax credit because you did not respond to the renewal notice and did not complete your renewal within the required timeframe.

On November 18, 2017, NYSOH issued a plan disenrollment notice stating your enrollment in your Essential Plan coverage would end as of November 30, 2017 because you were no longer eligible to enroll in that plan.

On November 24, 2017, NYSOH received three applications for financial assistance through NYSOH. That day, a preliminary determination was prepared stating that you were ineligible to purchase health insurance through NYSOH.

On December 5, 2017, you spoke to the NYSOH's Accounts Review unit and requested an appeal, insofar, you were found ineligible to enroll in health insurance coverage through NYSOH.

On February 21, 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 testimony, you are appealing on behalf of yourself.

2) You testified that you are appealing to be able to continue your former Essential Plan coverage, or to enroll in new coverage.

3) Your NYSOH account reflects that you are [redacted], and that you have been enrolled in Medicare since Apri[redacted] 2017.

4) Your NYSOH account reflects that you are [redacted].

5) According to your NYSOH account, you are married and do not have any dependents.

6) You testified that you are only enrolled in Medicare Part A.

7) You testified that you did not enroll in Medicare Part B because you had Essential Plan coverage through NYSOH when you became eligible for Medicare.

8) You testified if you enroll in Medicare Part B now, it will not be effective until July 2018.

9) You testified you had surgery on [redacted] and [redacted].

10) You testified you completed your renewal on November 24, 2017, and thought your coverage was still in place.

11) Your NYSOH account reflects your NYSOH application was updated on November 24, 2017, and a preliminary eligibility determination was prepared stating you were not eligible for coverage.

12) You testified you did not notice the email you received regarding the November 18, 2017 disenrollment notice because it came around the time you were due to renew your application, and you had been receiving many emails from NYSOH.

13) You testified you discovered you did not have coverage when you went to the hospital on [redacted]

14) You testified you are above the income limit for Medicaid, and have not filed an application with your local Department of Social Services.

15) You testified you were told to "hang on" to your Medicare Part B application until you can resolve whether you are able to get coverage through NYSOH.

16) You testified you have over [redacted] in medical bills from the month of December 2017, when you had only Medicare Part A coverage.

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

Applicable Law and Regulations

Qualified Health Plans

It is unlawful for a person to sell or issue to an individual, entitled to benefits under Medicare Part A or enrolled under Medicare Part B, a health insurance policy with the knowledge that the policy duplicates health benefits to which the individual is otherwise entitled to be enrolled in. This includes QHP's issued through NYSOH (42 US Code (USC) § 1395ss(d)(3)(A); *see also*; https://www.cms.gov/Medicare/Eligibility-and-Enrollment/Medicare-and-the-Marketplace/Downloads/Medicare-Marketplace_Master_FAQ_4-28-16_v2.pdf (last updated April 28, 2016).

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 (NY SSL) § 369-gg(3), 42 USC § 18051).

"Minimum essential coverage" includes most government-sponsored insurance plans such as Medicaid, Medicare, CHIP, Tricare, Veterans' Health Coverage, and eligible employer-sponsored insurance (26 USC §§ 36B(c)(2)(B) and 5000A(f)).

Medicaid

An individual is eligible for enrollment in Medicaid through NYSOH (called MAGI-based Medicaid) when he or she meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard (45 CFR § 155.305(c); NY SSL § 366(1)(b)).

In general, to qualify for MAGI-based Medicaid through NYSOH, you must also be one of the following:

- An adult aged 19-64 who is not eligible for Medicare Part A or Part B,
- A pregnant woman or infant,
- A child aged 1-18, or
- A parent or caretaker relative

(45 CFR § 155.305(c); NY SSL § 366(1)(b)).

If an individual does not fall into one of these categories, he or she may still be eligible for non-MAGI-based Medicaid coverage through their Local Department of Social Services or the New York City Human Resources Administration (*see* NY SSL § 366(1)(c)).

Legal Analysis

The issue under review is whether you were properly determined ineligible for health insurance through NYSOH.

You testified you are appealing the denial of eligibility for health insurance through NYSOH. The record does not contain a notice of determination on the issue of your eligibility for coverage through NYSOH. However, when you

updated your application on November 24, 2017, a preliminary eligibility determination was prepared stating that you were not eligible to enroll in coverage through NYSOH. Therefore, that preliminary eligibility determination is the subject of this appeal and decision.

The sale or issuance of health insurance coverage to Medicare beneficiaries, including QHPs through NYSOH, that duplicate any benefits provided by Medicare, is prohibited. The record reflects that you have been enrolled in Medicare Part A since April 2017. Therefore, as benefits received through a QHP can duplicate benefits you receive through Medicare, you were not eligible to enroll in a QHP at full cost through NYSOH, as of your November 24, 2017 application.

The record reflects you were enrolled in the Essential Plan during 2017, and you testified you would like to continue to be eligible for this coverage.

The Essential Plan is available to individuals who are not otherwise eligible for minimum essential coverage. Various government-sponsored plans provide minimum essential coverage, including Part A of the Medicare program. You have been enrolled in Medicare Part A since April 2017. Therefore, you were not eligible to enroll in the Essential Plan when you reapplied for coverage because you were already enrolled in minimum essential coverage at that time.

Medicaid through NYSOH is available to individuals who are between the ages of 19 and 64, who are not eligible for Medicare Parts A or B; pregnant women or infants; children between the ages of 1 and 18; and parent or caretaker relatives.

The record reflects that, when NYSOH prepared the preliminary eligibility determination on November 24, 2017, you were eligible for both Medicare Part A and Part B, and enrolled in Medicare Part A. Furthermore, the record reflects that you have no dependents and, therefore, are not a parent or a caretaker relative of a dependent child. Therefore, you do not qualify for Medicaid on that basis. Since you were enrolled in Medicare Part A and were not a parent or caretaker relative, NYSOH properly determined that you were not eligible for Medicaid through NYSOH.

Therefore, you were properly determined ineligible to enroll in health insurance through NYSOH, and the preliminary eligibility determination to this effect is AFFIRMED.

Decision

NYSOH's November 24, 2017 preliminary eligibility determination stating that you were ineligible to enroll into health insurance coverage through NYSOH is AFFIRMED.

Effective Date of this Decision: April 17, 2018

How this Decision Affects Your Eligibility

You are ineligible to enroll into health insurance through NYSOH.

You may qualify for non-MAGI Medicaid with a spend-down. You may file an application for non-MAGI Medicaid through your local Department of Social Services.

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:

- 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

NYSOH's November 24, 2017 preliminary eligibility determination stating that you were ineligible to enroll into health insurance coverage through NYSOH is AFFIRMED.

You are ineligible to enroll into health insurance through NYSOH.

You may qualify for non-MAGI Medicaid with a spend-down. You may file an application for non-MAGI Medicaid through your local Department of Social Services.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545(a).

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).