



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

Notice of Decision

Decision Date: March 05, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025465

[REDACTED]

[REDACTED]

Dear [REDACTED],

On February 14, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 10, 2017 notice of eligibility determination, November 10, 2017 notice of plan disenrollment.

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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Decision

Decision Date: March 05, 2018

NY State of Health Account ID: [REDACTED]
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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 your eligibility for, and enrollment in, the Essential Plan ended effective December 1, 2017?

Procedural History

On August 15, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective September 1, 2017. The notice further directed you to provide documentation confirming your income before November 12, 2017.

On November 8, 2017, NYSOH uploaded income documentation to your NYSOH account that you submitted by fax in response to the August 15, 2017 notice.

On November 9, 2017, NYSOH reviewed the income documentation you submitted and determined it was sufficient to verify your household's income. NYSOH recalculated your household income based on this information, updated the income in your household's application based on this recalculation, and then submitted an application on your behalf.

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On November 10, 2017, NYSOH issued a notice of eligibility determination, stating that you were eligible for a tax credit of up to \$340.00 per month, and eligible to receive cost-sharing, effective December 1, 2017. That notice also stated that you were no longer eligible for the Essential Plan because your income was over the allowable limits for that program.

Also on November 10, 2017, NYSOH issued a notice of plan disenrollment, stating that your enrollment in your Essential Plan ended on November 30, 2017.

On November 16, 2017 you contacted NYSOH and updated your application for health insurance.

On December 7, 2017, you spoke to NYSOH's Account Review Unit and appealed the November 10, 2017 eligibility determination insofar as you were no longer eligible for the Essential Plan effective December 1, 2017.

On December 8, 2017, NYSOH issued a notice of plan enrollment based on your plan selection on December 7, 2017, stating that your enrollment in your essential plan began January 1, 2018.

On December 22, 2017, NYSOH issued a notice stating that you were enrolled in an Essential Plan with a \$20.00 monthly premium for a limited time. This is because you were granted Aid to Continue pending the outcome of your appeal.

Also on December 22, 2017, NYSOH issued a notice stating that you were enrolled in an Essential Plan 1, with a \$20.00 monthly premium, effective December 1, 2017.

On February 14, 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 until March 1, 2018, to allow you to submit paystubs for the month of December 2017.

On February 20, 2018, the Appeals Unit received via fax copies of your paystubs for the month of December 2017. These documents were collectively marked as Appellant's Exhibit #1, and incorporated into the record. The record is now closed.

Findings of Fact

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

- 1) You testified that you are appealing only your disenrollment in the Essential Plan beginning December 1, 2017.

- 2) Your NYSOH account reflects that you reside in Ulster County with your two children and their other parent.
- 3) You testified, and your NYSOH account reflects, that you are single, you will be filing your 2017 taxes with a filing status of head of household and that you will claim your two children as dependents on that tax return.
- 4) Your NYSOH account reflects that your children's other parent files his taxes with a filing status of single.
- 5) On November 8, 2017, NYSOH received two paystubs you submitted by fax that same day and uploaded it to your NYSOH account as document [REDACTED]
- 6) The paystubs indicate that you are paid bi-weekly.
- 7) The first paystub is dated October 20, 2017. That paystub is for the period of October 1, 2017 through October 14, 2017, and shows you received a gross payment of \$1,556.20.
- 8) The second paystub is dated November 3, 2017. That paystub is for the period of October 15, 2017 through October 28, 2017, and shows that you received a gross payment of \$1,613.24.
- 9) On November 9, 2017, NYSOH validated the income documentation you uploaded, recalculated your household income based on that documentation as \$41,202.72, updated your annual expected income to \$41,202.72, and submitted an application on your behalf.
- 10) You testified that this income was incorrect. You testified that you are a per diem employee so you work on an as-needed basis and therefore, your income varies depending on the number of hours you work.

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

Applicable Law and Regulations

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

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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 \$20,160.00 for a three-person household (82 Fed. Reg. 8831).

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

The Essential Plan is considered minimum essential coverage; therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

Verification of Eligibility for the Essential Plan

NYSOH must verify the eligibility of an applicant for the Essential Plan consistent with the standards set in 45 CFR § 155.315 and § 155.320 (New York's Basic Health Plan Blueprint, pgs. 16-17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>; 42 CFR § 600.345(a)(2)).

An applicant is required to attest to their household's projected annual income. (45 CFR § 155.320(c)(3)(ii)(B)). For all individuals whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security in order to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant in order to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any updates in eligibility to the Essential Plan effective the first day of the following month for changes received by NYSOH from the first to the fifteenth of any month (45 CFR § 155.420(b)(1)(i); see *also* 42 CFR § 600.320(c)). For updates received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR § 155.420(b)(1)(ii); see *also* 42 CFR § 600.320(c)).

Household Size

For purposes of advance premium tax credit and cost-sharing reductions, the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your eligibility for, and enrollment in, the Essential Plan ended effective December 1, 2017.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her household's projected annual income. For individuals seeking enrollment in the Essential Plan, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

In the eligibility determination notice dated August 15, 2017, you were advised that you were eligible for the Essential Plan for a limited time, and that you needed to provide documentation confirming your income before November 12, 2017.

In response to this notice, you faxed paystubs to NYSOH, which were then uploaded to your NYSOH account on November 8, 2017. On November 9, 2017, NYSOH validated your paystubs as satisfactory proof of your income. The NYSOH representative then submitted an application for financial assistance on your behalf. In that application, the NYSOH representative entered your annual household income as \$41,202.72, and the eligibility determination relied on that information.

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Although you testified that an annual household income of \$41,202.72 was incorrect, the income amount entered by the NYSOH is supported by the documentation you provided. Calculations based on the income in the paystubs provided yield an average bi-weekly gross salary of \$1,584.72 (the sum of \$1,556.20 and \$1,613.24, divided by two). A bi-weekly salary means you get paid 26 times per year, half the number of weeks in a year. Therefore, the average bi-weekly salary of \$1,584.72 results in an average gross salary of \$41,202.72 per year (the result of \$1,584.72 multiplied by 26). Therefore, NYSOH reasonably calculated that your annual gross income to be \$41,202.72, and properly relied on that information.

According to your NYSOH account, you reside with your two children and their other parent. You testified, and your application states, that you are single, that you expect to file your 2017 income taxes as head of household and will be claiming two dependents on that tax return. Therefore, you are in a three-person household.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$20,160.00 for a three-person household. Since an annual household income of \$41,202.72 is 204.38% of the 2016 FPL, NYSOH properly found you were not eligible for the Essential Plan based on the information that was provided.

The date on which changes go into effect depends on the day in which the update is made. Updates made from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. Redeterminations made from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

Your eligibility was updated on November 9, 2017, so your eligibility in the Essential Plan properly ended the first day of the first month following November 2017; that is, on December 1, 2017.

Since the November 10, 2017 notice of eligibility determination, November 10, 2017 notice of plan disenrollment are supported by the record and the documentation you provided, they are AFFIRMED.

Decision

The November 10, 2017 notice of eligibility determination is AFFIRMED.

The November 10, 2017 notice of plan disenrollment is AFFIRMED.

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).

Effective Date of this Decision: March 05, 2018

How this Decision Affects Your Eligibility

NYSOH properly found you not eligible to enroll in the Essential Plan effective December 1, 2017 because your income was over the allowable limits for that program.

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

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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):

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- 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 10, 2017 notice of eligibility determination is AFFIRMED.

The November 10, 2017 notice of plan disenrollment is AFFIRMED.

NYSOH properly found you not eligible to enroll in the Essential Plan effective December 1, 2017 because your income was over the allowable limits for that program.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]

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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