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: AP000000025523

[redacted]

Dear [redacted]

On February 14, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 2, 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
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: March 20, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000025523

[redacted]

Issue

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

> Did NY State of Health properly determine you were eligible for the Essential Plan with a $20.00 monthly premium, and ineligible for Medicaid, effective January 1, 2018?

Procedural History

On December 2, 2017, NYSOH issued an eligibility determination notice, based on a December 1, 2017 systematic eligibility redetermination, stating you were eligible to enroll in the Essential Plan with a $20.00 monthly premium, effective January 1, 2018. That notice stated that you were not eligible for Medicaid, because your annual household income was over the allowable income limit for that program.

On December 8, 2017, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination notice insofar as you were no longer eligible for Medicaid.

On December 21, 2017, NYSOH issued a notice stating that you were eligible for Medicaid for a limited time, effective January 1, 2018, because you had been granted Aid to Continue pending the outcome of your appeal.

Also on December 21, 2017, NYSOH issued an enrollment notice confirming you were enrolled in Medicaid Managed Care plan, effective January 1, 2018.

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 to allow you time to submit supporting documents.

On February 14, 2018, your supporting documents were posted to your NYSOH account. The documents were incorporated into the record as Appellant's Exhibit #1 and the record closed thereafter.

Findings of Fact

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

1) You have been enrolled in a Medicaid Managed Care plan since 2015.

2) According to your account, NYSOH automatically renewed your coverage for the 2018 coverage year and found you eligible for the Essential Plan with a $20.00 monthly premium, effective January 1, 2018, based on income information from state and federal data sources.

3) According to your account, you updated your application several times in November 2017 listing annual income ranging from $5,490.00 to $7,090.00.

4) Following each application, NYSOH determined you conditionally eligible for Medicaid with documentation requested to verify your income and confirm your eligibility.

5) According to your account, in November 2017 you submitted various 1099 forms, letters from banks detailing interest paid on accounts, a dividend payment statement, an [redacted] transaction history, and a form 1040 from your 2016 tax return showing adjusted gross income of $20,538.00.

6) You also submitted a letter from you stating that the majority of your 2016 adjusted gross income "was attributable to interest received from a one-time cashing out of savings bonds." The letter indicated that a form 1099 from [redacted] was attached evidencing the bond pay-out in the amount of $14,451.20. The letter further stated that the cash out "was a one-time unanticipated event."

7) The form 1099 from [redacted] attached to your letter was not legible.

8) According to your account, NYSOH verified the form 1040 from your 2016 tax return and invalidated the remaining documentation.

9) On December 1, 2017, NYSOH redetermined your eligibility based on an annual income of $20,538.00, the adjusted gross income from your 2016 tax return, and found you eligible for the Essential Plan with a $20.00 monthly premium, effective January 1, 2018.

10) You appealed insofar as you were no longer eligible for Medicaid.

11) You were granted aid to continue in your Medicaid Managed Care plan pending the outcome of your appeal.

12) On February 6, 2017 you submitted a letter stating that your income for 2017 was $7,420.46 comprised of interest earned and dividends received from several accounts, income received from [redacted], and $58.88 received from [redacted]. You also uploaded corresponding 1099 forms and an earnings summary.

13) You testified that you live off your savings and your only income is interest you receive from various accounts, dividends, and income derived from [redacted].

14) You testified that, as of the date of the hearing, you had not yet filed your 2017 tax return.

15) You testified that you expect your income in 2018 to be substantially similar to your income in 2017, except that you might earn slightly more as interest rates go up.

16) You testified that your adjusted gross income from your 2016 tax return is not representative of your income in 2018, because most of it was from a one-time cash out of a savings bond. You testified that this is not reoccurring income, because you do not have any additional savings bonds.

17) You were directed to submit legible documentary evidence of the 2016 cash out of the savings bond accounting for most of your adjusted gross income in your 2016 tax return.

18) On February 14, 2018, you uploaded a tax statement from [redacted] addressed to you showing interest income of $14,451.20 and a scheduled B from your 2016 tax return showing interest income from [redacted] in the same amount.

19) You testified, and your applications indicate you will file your 2018 tax return with a tax filing status of single.

20) You testified, and your applications indicate you will not claim any dependents on your 2018 tax return.

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 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 Federal Register 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).

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 Fed. Reg. 8831).

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 finds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income (*id*.).

Legal Analysis

The issue is whether NYSOH properly determined were eligible for the Essential Plan with a $20.00 monthly premium and ineligible for Medicaid, effective January 1, 2018.

According to your account, you updated your application several times in November 2017 listing annual income ranging from $5,490.00 to $7,090.00. Following each application, NYSOH determined you conditionally eligible for Medicaid with documentation requested to verify your income and confirm your eligibility.

In November 2017 you submitted various 1099 forms, letters from banks detailing interest paid on accounts, a dividend payment statement, an [redacted] transaction history, and a form 1040 from your 2016 tax return showing adjusted gross income of $20,538.00. Although you also submitted a letter from you stating that the majority of your 2016 adjusted gross income "was attributable to interest received from a one-time cashing out of savings bonds," the form 1099

from [redacted] attached to your letter to evidence the bond pay-out was not legible.

According to your account, NYSOH verified the form 1040 from your 2016 tax return and invalidated the remaining documentation. On December 1, 2017, NYSOH redetermined your eligibility based on an annual income of $20,538.00, the adjusted gross income from your 2016 tax return, and found you eligible for the Essential Plan with a $20.00 monthly premium, effective January 1, 2018. You appealed insofar as you were no longer eligible for Medicaid.

You testified that your adjusted gross income from your 2016 tax return is not representative of your income in 2018, because most of it was from a one-time cash out of a savings bond. You testified that this is not reoccurring income, because you do not have any additional savings bonds. On February 14, 2018, you uploaded a tax statement from [redacted] addressed to you showing interest income of $14,451.20 as well as a scheduled B from your 2016 tax return listing interest income from [redacted] in the same amount. It is concluded that this documentary evidence corroborates your sworn testimony that most of your adjusted gross income in your 2016 tax return was from a one-time cash out of a savings bonds and is not reoccurring income. Thus, it is concluded that the adjusted gross income in your 2016 tax return is not representative of your expected annual income for 2018.

You testified that you live off your savings and your only income is interest you receive from various accounts, dividends, and income derived from an [redacted] rental. You further testified that, as of the date of the hearing, you had not yet filed your 2017 tax return. On February 6, 2017 you submitted a letter stating that your income for 2017 was $7,420.46 comprised of interest earned and dividends received from several accounts, income received from [redacted], and $58.88 received from [redacted]. You also uploaded various 1099 forms and an earnings summary corroborating the amounts listed in your letter. Based on your sworn testimony that you expect your income in 2018 to be substantially similar to your income in 2017, the documentary evidence submitted supporting your calculations of your 2017 income, and the lack of a reliable tax return, it is concluded that the best evidence of your expected income for 2018 is your $7,420.46 calculation of your 2017 income.

Based on the foregoing, the December 2, 2017 eligibility determination notice stating you were eligible for the Essential Plan with a $20.00 monthly premium and ineligible for Medicaid, effective January 1, 2018, is no longer supported by the record as it was based on the adjusted gross income from your 2016 tax return. Therefore, that notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for 2018 based on a one-person household and the now developed record establishing your expected annual income for 2018 is $7,420.46.

Decision

The December 2, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for 2018 based on a one-person household and an annual income of $7,420.46.

Effective Date of this Decision: March 20, 2018

How this Decision Affects Your Eligibility

This is not a final determination of your eligibility.

Your case is being sent back to NYSOH to redetermine your eligibility in accordance with this decision.

You will receive an updated eligibility determination notice from NYSOH.

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 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:

  NY State of Health Appeals
  P.O. Box 11729
  Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The December 2, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for 2018 based on a one-person household and an annual income of $7,420.46.

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 is not a final determination of your eligibility.

Your case is being sent back to NYSOH to redetermine your eligibility in accordance with this decision.

You will receive an updated eligibility determination notice from NYSOH.

Legal Authority

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

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).