



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

## Notice of Decision

Decision Date: April 12, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025623

[REDACTED]

[REDACTED]

On April 2, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 12, 2017 denial 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 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).

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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: April 12, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025623

[REDACTED]

## Issue

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

Did NY State of Health properly determine that your spouse did not qualify for Medicaid, the Essential Plan, premium tax credits and cost sharing reductions, or to enroll in a qualified health plan at full cost, effective January 1, 2018?

## Procedural History

On January 11, 2017, NY State of Health (NYSOH) issued an eligibility determination notice stating that your spouse was eligible for the Essential Plan with a \$20.00 per month premium, effective February 1, 2017.

Also on January 11, 2017, NYSOH issued an enrollment confirmation notice stating that your spouse was enrolled into an Essential Plan, effective January 1, 2017.

On October 24, 2017, NYSOH issued a notice of renewal stating that it was time to renew your spouse's health insurance coverage for the upcoming coverage year. That notice stated that based on the information from federal and state sources a decision could not be made about whether your spouse qualifies for financial help in paying for health insurance coverage. You were asked to update your NYSOH account by December 15, 2017.

On December 3, 2017, you submitted an application for financial assistance with health insurance to NYSOH. The NYSOH system indicated that your spouse was eligible for Medicare beginning February 1, 2017.

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On December 4, 2017, NYSOH issued a discontinuance notice, based on the December 3, 2017 application, stating that effective January 1, 2018 your spouse was no longer eligible for health insurance through NYSOH. Your spouse was not eligible for Medicaid in part because he had Medicare and your household income was over the allowable limit. The notice also stated that your spouse did not qualify for the Essential Plan, premium tax credit and cost-sharing reductions, or a qualified health plan at full cost because NYSOH's information showed that he had Medicare and individuals with Medicare cannot get health insurance through NYSOH.

Also on December 4, 2017, NYSOH issued a disenrollment notice, stating that your spouse was disenrolled from his Essential Plan, effective December 31, 2017.

On December 11, 2017, you submitted another application for financial assistance. The NYSOH system indicated that your spouse was eligible for Medicare beginning February 1, 2017. A preliminary determination that your spouse did not qualify for health coverage through NYSOH was made based on the data obtained.

Also on December 11, 2017, you contacted NYSOH's Account Review Unit and requested an appeal insofar as your spouse was determined ineligible for health insurance through NYSOH.

On December 12, 2017, NYSOH issued a denial notice, based on your December 11, 2017 application, stating that your spouse did not qualify for Medicaid in part because he had Medicare and your household income was over the allowable limit. The notice also stated that he did not qualify for the Essential Plan, premium tax credit and cost-sharing reductions, or a qualified health plan at full cost because NYSOH's information showed that he had Medicare and individuals with Medicare cannot get health insurance through NYSOH.

On April 2, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you testified on behalf of your spouse. The record was developed during the hearing and closed that same day.

## **Findings of Fact**

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

- 1) You testified that you are appealing on behalf of your spouse to be able to enroll health insurance through NYSOH.

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- 2) Your application states that you expect to file your federal income taxes as married filing jointly, claim two dependents, and not take any deductions.
- 3) You testified that your spouse had Medicare Part A hospital coverage and prescription coverage however he does not have Medicare Part B coverage.
- 4) You testified that you were not sure when your spouse became eligible for Part A coverage; however, it was some time after he was [REDACTED] [REDACTED] in November of 2015.
- 5) According to your NYSOH account, your spouse has been enrolled in Medicare Part A since February 1, 2017.
- 6) You testified that you are only seeking to enroll your spouse in health coverage through NYSOH until July 2018 because your spouse will become eligible for Medicare Part B beginning July 2018.

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

## **Applicable Law and Regulations**

### Qualified Health Plan

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 (42 U.S. Code § 1395ss(d)(3)(A); [https://www.cms.gov/Medicare/Eligibility-and-Enrollment/Medicare-and-the-Marketplace/Downloads/Medicare-Marketplace\\_Master\\_FAQ\\_4-28-16\\_v2.pdf](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).

### Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit 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)).

### Cost-Sharing Reductions

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).

Cost-sharing reductions are available to a person who (1) is eligible to enroll in a qualified health plan through NYSOH, (2) meets the requirements to receive advance payments of the premium tax credit, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level qualified health plan (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

### 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).

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

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)).

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 N.Y. Soc. Serv. Law § 366(1)(c)).

## Legal Analysis

The issue under review is whether NYSOH properly determined that your spouse did not qualify for Medicaid, the Essential Plan, premium tax credits and cost sharing reductions, or to enroll in a qualified health plan at full cost.

On December 11, 2017, you submitted an application for financial assistance with health insurance to NYSOH in order to renew your spouse's coverage for the upcoming coverage year. The system indicated that your spouse was eligible for Medicare. As a result of this application, your spouse was disenrolled from his Essential Plan and found not eligible to enroll in coverage through NYSOH in part because he was enrolled in Medicare.

You confirmed that your spouse has been receiving Medicare Part A and prescription coverage since some time after being [REDACTED] in November of 2015. The system indicates that your spouse had been enrolled in Medicare Part A since February 1, 2017.

In order to enroll into a qualified health plan through NYSOH, an applicant cannot have duplicate coverage in Medicare. The sale or issuance of duplicate health insurance coverage to Medicare beneficiaries, including qualified health plans through NYSOH, is prohibited. NYSOH data sources reflect, and your testimony confirmed, that your spouse has been eligible for and enrolled in Medicare Part A since at least February 1, 2017. Therefore, NYSOH properly determined that your spouse did not qualify to enroll in a qualified health plan at full cost due to having access to Medicare Part A at the time of your December 11, 2017 renewal.

In order to be found eligible for advance payments of the premium tax credit or cost-sharing reductions, an individual must be eligible to enroll in a qualified health plan. As your spouse is ineligible to enroll in a qualified health plan as noted above, NYSOH properly found him ineligible for advance payments of the premium tax credit and cost-sharing reductions.

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. Again, since your spouse has been enrolled in Medicare Part A since at least February 1, 2017, NYSOH properly determined that your spouse did not qualify to enroll in the Essential Plan because he was enrolled in minimum essential coverage.

Medicaid through NYSOH is available to individuals whom in relevant part, are not eligible for Medicare Parts A or B.



The record reflects and your testimony confirmed that, when NYSOH issued the December 12, 2017 denial notice, your spouse was eligible for and enrolled in Medicare Part A.

Since your spouse was enrolled in Medicare Part A, NYSOH properly determined that he did not qualify for Medicaid through NYSOH.

Therefore, NYSOH properly determined that your spouse was ineligible to enroll in health insurance through NYSOH. The December 12, 2017 denial notice is correct and is AFFIRMED.

## **Decision**

The December 12, 2017 denial notice is AFFIRMED.

**Effective Date of this Decision:** April 12, 2018

## **How this Decision Affects Your Eligibility**

Your spouse is ineligible for health insurance through NYSOH.

## **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

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).



- 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 12, 2017 denial notice is AFFIRMED.

Your spouse is ineligible for health insurance through NYSOH.

### **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:**



## 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।

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 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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