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

Notice of Decision

Decision Date: March 26, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000025837

[redacted]

Dear [redacted],

On February 20, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 15, 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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DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: March 26, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000025837

[redacted]

Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

> Did NY State of Health properly determine you were eligible for the Essential Plan, effective January 1, 2018?

Procedural History

On December 6, 2017, you submitted an application for financial assistance with health insurance.

On December 7, 2017, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income documentation you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit income documentation for your household by December 21, 2017.

On December 1, 2017, you submitted income documentation.

On December 12, 2017, you submitted additional income documentation.

On December 13, 2017, your documentation was verified as sufficient proof of income and an application was run on your behalf.

On December 14, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for the Essential Plan for a limited time, effective January 1,

2018. You were directed to produce additional income documentation by March 13, 2018.

Also on December 14, 2017, an application for financial assistance with health insurance was run on your behalf.

That day, a preliminary eligibility determination was prepared stating that you were eligible for the Essential Plan, effective January 1, 2018.

Also on December 14, 2017, you spoke to NYSOH's Account Review Unit and appealed that preliminary eligibility determination notice insofar as you were not determined eligible for Medicaid.

On December 15, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for the Essential Plan, effective January 1, 2018. That notice also stated that you were not eligible for Medicaid because your annual household income was over the allowable income limit for that program.

On February 20, 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) You testified that you expect to file your tax return for 2018 with a tax filing status of single. You will claim no dependents on that tax return.

2) You are seeking health insurance for yourself. Specifically, you want to be determined eligible for Medicaid.

3) The application that was submitted on December 14, 2017, listed annual household income of $19,740.00, consisting of income you earn from self-employment. Your account indicates that this was calculated based on [redacted] and [redacted], resulting in rental incomes of $10,800.00 and $8,940.00. You testified that this amount was incorrect.

4) You testified that all your income comes from rental properties. You own [redacted] with three units. You testified that you rent two of the units and reside in the third.

5) On December 12, 2017, you submitted documentation as proof of income, including a [redacted], copies of rent checks, receipts for expenses, and copies of tax bills.

6) On December 12, 2017, you also submitted a "Yearly Income Statement" with a breakdown of your income and expenses from December 12, 2016 through December 12, 2017 (see [redacted]). This document indicates the amount of rent you received for each unit for the year (totaling $19,590.00), as well as a breakdown of "Most operating expenses from past 12 months." The operating expenses are first listed as totals, then multiplied by two-thirds so as not to consider your personal residence as an expense. The expenses related to your income properties are listed as $9,558.00. This results in an annual income of $10,032.00.

7) The expenses for [redacted] as listed on your yearly income statement include payment on [redacted] ($899.00), 2017 [redacted] tax ($2,008.00), 2017 school tax ($1,606.00), 2017 water bills ($288.00), roof repair materials ($369.00), recycling bill ($58.00), boiler for [redacted] ($4,250.00), and fridge for [redacted] ($80.00).

8) Your application states that you live in Rensselaer County, NY.

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 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)).

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).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

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 under review is whether NYSOH properly determined that you were eligible for the Essential Plan, effective January 1, 2018.

You are in a one-person household for purposes of this analysis. This is because you expect to file your 2018 income taxes as single and will claim no dependents on that tax return.

On December 13, 2017, NYSOH verified your income documentation as satisfactory proof of your income and an application for financial assistance was run on your behalf by NYSOH. The NYSOH representative entered into your application an additional income of $19,740.00. Your account indicates that this was calculated based on [redacted] and [redacted], resulting in [redacted] incomes of $10,800.00 and $8,940.00.

However, NYSOH bases its eligibility determinations on modified adjusted gross income, which is adjusted gross income increased by any income that was excluded for United States citizens or residents living abroad, tax-exempt interest received or accrued, and Social Security benefits that were excluded from gross income. Adjusted gross income means gross federal taxable income minus certain specific deductions.

The[redacted] and [redacted], which the NYSOH representative allegedly relied on when entering the income amounts, do not account for the deductions clearly indicated on the yearly income statement submitted the same day. That statement contains a breakdown of your income and expenses from December 12, 2016 through December 12, 2017. This document indicates the amount [redacted] you received for each unit for the year (totaling $19,590.00 for both units), as well as a breakdown of “Most operating expenses from past 12 months.” The operating expenses are first listed as totals, then multiplied by two-thirds so as not to consider your personal residence as an expense. The expenses related to your income properties are listed as $9,558.00.

The expenses listed are all appropriately considered deductions, except for payment on past due taxes. Therefore, removing your[redacted] ($899.00) from your listed expenses ($9,558.00), your deductible expenses are more accurately calculated at $8,659.00. This results in an annual income of $10,931.00.

Based on the above, the December 13, 2017 application was erroneously submitted to include your earned income but not your deductions. The application should have contained your earned income as well as the deductions stated on your yearly income statement.

Since the December 14, 2017 eligibility determination notice is not supported by the documentation you provided as well as your credible testimony during the hearing, it was made in error.

Based on the updated income information now available, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance, using an annual expected income of $10,931.00 for a one-person household, for an individual residing in Rensselaer County. At your option, this redetermination will be made as of December 13, 2017, or as of the date of this Decision.

NYSOH is directed to contact you immediately to effectuate the option you choose and to assist you with enrollment in the appropriate plan.

Decision

The December 14, 2017 eligibility determination notice was based on incorrectly calculated income and, therefore, was made in error.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance, using an annual expected income of $10,931.00 for a one-person household, for an individual residing in Rensselaer County. At your option, this redetermination will be made as of December 13, 2017, or as of the date of this Decision.

If you elect to have your eligibility for financial assistance redetermined as of December 13, 2017, the December 14, 2017 eligibility determination is RESCINDED.

However, if you elect to have your eligibility redetermined as of the date of this Decision, it will not be disturbed.

NYSOH is directed to contact you immediately to effectuate the option you choose and to assist you with enrollment in the appropriate plan.

Effective Date of this Decision: March 26, 2018

How this Decision Affects Your Eligibility

NYSOH improperly determined you eligible for the Essential Plan based on an incorrect income as of January 1, 2018.

Your case is being sent back to NYSOH to redetermine your eligibility as of December 13, 2017 or as of the date of this Decision, based on the parameters noted above.

Please note that if you sought medical treatment and care from January 2018 to present and claims were processed and paid by your Essential Plan, you may be responsible to pay out-of-pocket to medical providers for such treatment and care, if you elect a January 1, 2018 effective date of your redetermination of eligibility for financial assistance.

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 14, 2017 eligibility determination notice was based on incorrectly calculated income and, therefore, was made in error.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance, using an annual expected income of $10,931.00 for a one-person household, for an individual residing in Rensselaer County. At your option, this redetermination will be made as of December 13, 2017, or as of the date of this Decision.

If you elect to have your eligibility for financial assistance redetermined as of December 13, 2017, the December 14, 2017 eligibility determination is RESCINDED.

However, if you elect to have your eligibility redetermined as of the date of this Decision, it will not be disturbed.

NYSOH is directed to contact you immediately to effectuate the option you choose and to assist you with enrollment in the appropriate plan.

NYSOH improperly determined you eligible for the Essential Plan based on an incorrect income as of January 1, 2018.

Your case is being sent back to NYSOH to redetermine your eligibility as of December 13, 2017 or as of the date of this Decision, at your option, based on the parameters noted above.

Please note that if you sought medical treatment and care from January 2018 to present and claims were processed and paid by your Essential Plan, you may be responsible to pay out-of-pocket to medical providers for such treatment and care, if you elect a January 1, 2018 effective date of your redetermination of eligibility for financial assistance.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

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).