



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

Notice of Decision

Decision Date: March 30, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026667

[REDACTED]

Dear [REDACTED],

On March 9, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 12, 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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Decision

Decision Date: March 30, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026667



Issue

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

Did NY State of Health properly determine that you were eligible to enroll in an Essential Plan with a \$20.00 monthly premium?

Procedural History

On November 30, 2017, NY State of Health (NYSOH) received your updated application for financial assistance with health insurance. You also uploaded four documents to your NYSOH account on November 30, 2017.

On December 1, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan with no monthly premiums, for a limited time, effective January 1, 2018. The notice directed you to submit proof of income by January 31, 2018, to confirm your eligibility.

Also on December 1, 2017, NYSOH issued a notice stating that the income information you entered into your application did not match what NYSOH received from state and federal data sources and more information was needed to confirm the information in your application. The notice directed you to provide income documentation by December 17, 2017, to confirm your income by January 31, 2018, and your spouse's income by December 17, 2017, to confirm your respective eligibilities.

On December 2, 2017, NYSOH issued a notice stating that the income documentation that you submitted was not sufficient to confirm the information in

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your application. The notice directed you to submit additional income documentation by December 17, 2017, to confirm your spouse's eligibility and January 31, 2018, to confirm your eligibility.

On December 4, 2017, you uploaded four documents to your NYSOH account.

On December 6, 2017, NYSOH issued a notice stating that that the documentation that you submitted was not sufficient to confirm the information in your application. The notice directed you to submit additional income documentation to confirm your spouse's eligibility by December 17, 2017, and to confirm your eligibility by January 31, 2018.

On December 10, 2017, you uploaded two documents to your NYSOH account.

On December 11, 2017, a NYSOH representative validated the documentation and an updated application was submitted on your and your spouse's behalf.

On December 12, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plans with \$20.00 monthly premiums each, effective January 1, 2018.

On December 14, 2017, NYSOH issued a plan enrollment notice confirming your and your spouse's enrollment in Essential Plans with \$20.00 monthly premiums each, effective January 1, 2018.

On January 2, 2018, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination notice insofar as you and your spouse were not found eligible for the Essential Plan with no monthly premium.

On March 9, 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 March 26, 2018, to allow you time to submit supporting documents.

On March 16, 2018, NYSOH issued a discontinuance notice stating that you and your spouse were no longer eligible to remain enrolled in health insurance coverage through NYSOH, because both of you were no longer residents of New York State. This eligibility was effective April 1, 2018.

Also on March 16, 2018, NYSOH issued a plan disenrollment notice terminating your and your spouse's Essential Plan coverage as of March 31, 2018.

As of the end of the business day on March 26, 2018, the Appeals Unit did not receive any documents from you and none were viewable in your NYSOH account. Therefore, the record was closed that same day and this Decision is based on the record as developed at the time 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 married filing jointly. You will claim no dependents on that tax return.
- 2) You are seeking health insurance for yourself and your spouse.
- 3) The application that was submitted on November 30, 2017, listed annual household income of \$27,603.11, consisting of \$1,603.11 you earn from your employment and \$26,000.00 your spouse earns from his employment.
- 4) The application that was submitted on November 30, 2017, indicated that you plan on taking a tuition and fee deduction of \$1,000.00 and your spouse plans on taking a student loan interest deduction of \$16,000.00 on your 2018 federal tax return.
- 5) You uploaded your employee earnings record from January 1, 2017 through December 31, 2017, which indicated that you made on average \$257.91 per week and that your hire date was November 2, 2017.
- 6) You uploaded your spouse's four biweekly paystubs which included paystubs dated:
 - a. October 13, 2017 for a gross income amount of \$1,083.06;
 - b. October 27, 2017 for a gross income amount of \$798.44;
 - c. November 10, 2017 for a gross income amount of \$978.25; and,
 - d. November 24, 2017 for a gross income amount of \$1,209.13.
- 7) On December 11, 2017, a NYSOH representative validated the income documentation you submitted and changed your household income from \$27,603.11 to \$42,584.36, by changing your annual expected income from \$1,603.11 to \$14,148.42, and your spouse's annual expected income from \$26,000.00 to \$28,435.94.
- 8) The application that was submitted on December 11, 2017, also indicated that you plan on taking a tuition and fee deduction of \$1,000.00 and your spouse plans on taking a student loan interest deduction of \$16,000.00 on your 2018 federal tax return.
- 9) Because of the deductions listed in your application, NYSOH calculated your annual expected income to be \$25,584.36.

- 10) You testified that you stopped working on [REDACTED].
- 11) You testified that, as of the date of the hearing, your spouse was still employed but that he was going to resign at some point in the future.
- 12) The Hearing Officer left the record open until March 26, 2018, to allow you time to submit proof that you had stopped working, proof of your income for the month of January 2018, and your spouse's four most recent paystubs.
- 13) Your application states, and you confirmed, that you lived in New York County as of the date of the December 11, 2017 application.
- 14) You testified that you are only appealing your eligibility.
- 15) You testified that you are unable to afford the Essential Plan with the \$20.00 monthly premium due to the copays that are associated with the plan.
- 16) You testified that you would like to be found eligible for the Essential Plan with no monthly premium.
- 17) According to your NYSOH account, after the hearing, on March 15, 2018, you updated your mailing, residential, and legal address in your NYSOH account to a [REDACTED] address, and, as a result, you and your spouse were found no longer eligible for health insurance coverage through NYSOH as of April 1, 2018.
- 18) According to your NYSOH account, you and your spouse were disenrolled from your Essential Plans as of March 31, 2018.

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)

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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 \$16,240.00 for a two-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)).

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" is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, interest on a qualified educational loan can be deducted from adjusted gross income in an amount up to \$2,500 in interest paid by taxpayers during the taxable year, whose yearly income does not exceed \$160,000 if the tax payer is filing their tax return as married filing jointly (26 USC § 221; see also 26 USC § 62 (17)).

Also subject to some limitations, tuition and fees for a dependent's higher education paid by the tax payer to a qualified educational institution can be deducted from adjusted gross income in an amount up to \$4,000.00, provided the tax payer's yearly income does not exceed \$80,000.00 for a single individual or \$160,000.00 if married filing jointly. This deduction was renewed by Congress

in December 2014 and made retroactive to the 2014 tax year and extended to December 31, 2017 (26 USC § 222(e); see IRS Publication 970).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were eligible to enroll in an Essential Plan with \$20.00 monthly premium, effective January 1, 2018.

The application that was submitted on November 30, 2017, listed an annual household income of \$27,603.11.

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.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determination notice issued on December 1, 2017, you were advised that you were eligible to enroll in an Essential Plan with no monthly premiums, for a limited time, and that you needed to submit income documentation in order to confirm your eligibility before January 31, 2018.

On December 10, 2017, you uploaded two documents to your NYSOH account; which contained a print out of your Employee Earnings Record and four of your spouse's biweekly paystubs.

The record reflects that, on December 11, 2017, a NYSOH representative validated the income documentation you submitted and changed your household income from \$27,603.11 to \$42,584.36. More specifically, the NYSOH representative updated your annual expected income from \$1,603.11 to \$14,148.42 and your spouse's annual expected income from \$26,000.00 to \$28,435.94. This application also stated that you plan on taking a tuition and fee deduction of \$1,000.00 and your spouse plans on taking a student loan interest deduction in the amount of \$16,000.00 on your 2018 federal tax return. Therefore, based on the information you provided, NYSOH calculated your annual household income to be \$25,584.36.

However, NYSOH bases its eligibility determinations on modified adjusted gross income (MAGI) as defined in the federal tax code. The Internal Revenue Service (IRS) allows a tax payer to deduct from their adjusted gross income the student

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loan interest in an amount up to \$2,500.00 in interest paid by a taxpayer during the taxable year to a qualified educational loan, whose yearly income does not exceed \$160,000.00 if the taxpayer is filing their tax return as married filing jointly. Further, the IRS allows a tax payer to deduct from their adjusted gross income up to \$4,000.00 in tuition and fees for higher education, subject to some limitations.

Since the highest amount your spouse can deduct from your tax return for student loan interest deduction, based on IRS regulation, is \$2,500.00, your household's eligibility should have been determined using a MAGI of \$39,084.36 (\$14,148.42 you earn from your employment, \$28,435.94 your spouse earns from his employment, a \$2,500.00 student loan interest deduction, and a \$1,000.00 for a tuition and fee deduction).

Therefore, the income amount that was relied upon in the December 12, 2017 eligibility determination notice is not supported by the record and the eligibility determination was made in error.

Generally, the NYSOH's Appeals Unit would return your case for redetermination, as of the date of the decision, based on the record as developed during the hearing. However, after the March 9, 2018 telephone hearing, your NYSOH account indicates that you and your spouse have moved out of New York State and, as a result, you and your spouse are no longer qualified to enroll in health insurance coverage through NYSOH, effective April 1, 2018. Therefore, the NYSOH's Appeals Unit will not return your case to NYSOH to redetermine your eligibility for financial assistance in 2018.

Decision

The December 12, 2017 eligibility determination notice was made in error and is not supported by the record.

Since you and your spouse have moved out of New York State after the March 9, 2018 telephone hearing and no longer qualify to enroll in health insurance through NYSOH, effective April 1, 2018, NYSOH Appeals Unit will not return your case to NYSOH to redetermine your eligibility for financial assistance in 2018.

Effective Date of this Decision: March 30, 2018

How this Decision Affects Your Eligibility

You and your spouse were enrolled into Essential Plans with \$20.00 monthly premiums each through NYSOH, effective January 1, 2018 through March 31, 2018.

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Effective April 1, 2018, you and your spouse are no longer eligible for health insurance through NYSOH because you indicated that you moved out of New York State. Therefore, your case will not be returned to NYSOH to redetermine your eligibility based on the record as of the date of this decision.

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

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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):

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- 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 eligibility determination notice was made in error and is not supported by the record.

Since you and your spouse have moved out of New York State after the March 9, 2018 telephone hearing and no longer qualify to enroll in health insurance through NYSOH, effective April 1, 2018, NYSOH will not return your case to NYSOH to redetermine your eligibility for financial assistance in 2018.

You and your spouse were enrolled into Essential Plans with \$20.00 monthly premiums each through NYSOH, effective January 1, 2018 through March 31, 2018.

Effective April 1, 2018, you and your spouse are no longer eligible for health insurance through NYSOH because you indicated that you moved out of New York State. Therefore, your case will not be returned to NYSOH to redetermine your eligibility based on the record as of the date of this decision.

Legal Authority

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

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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।

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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 okyerE 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 איך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.