



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

Notice of Decision

Decision Date: May 4, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027206



Dear [REDACTED]

On April 25, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 3, 2018 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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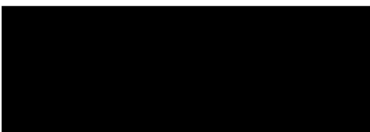


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Issues

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

Did NY State of Health (NYSOH) properly determine that you, your spouse, and your two children were eligible for the Essential Plan, effective February 1, 2018?

Did NY State of Health properly determine that you, your spouse, and your two children were not eligible for Medicaid?

Procedural History

On December 5, 2017, you applied for health insurance and financial assistance for your household through NYSOH.

On December 6, 2017, NYSOH issued an eligibility determination notice stating that you, your spouse, and your two children were conditionally eligible for Medicaid, effective January 1, 2018. You were directed to provide proof of household income.

Also on December 6, 2017, NYSOH issued a plan enrollment notice confirming that you, your spouse, and your two children were enrolled in a Medicaid Managed Care plan, effective January 1, 2018.

On December 18, 2017, you submitted income documentation.

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On December 20, 2017, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. You were directed to submit additional proof of income by January 4, 2018.

On December 30, 2017, you submitted additional income documentation.

On January 2, 2018, your documentation was verified by NYSOH as sufficient proof of income and an application was submitted on your household's behalf.

On January 3, 2018, NYSOH issued an eligibility determination notice stating that you, your spouse, and your two children were eligible for the Essential Plan, effective February 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 January 15, 2018, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination notice insofar as you, your spouse, and your two children were not eligible for Medicaid.

On January 30, 2018, NYSOH issued a notice stating that you, your spouse, and your two children were eligible for Medicaid for a limited time, effective February 1, 2018. This was because you, your spouse, and your two children had been granted Aid to Continue pending the outcome of your appeal.

Also on January 30, NYSOH issued a plan enrollment notice confirming that you, your spouse, and your two children were enrolled in a Medicaid Managed Care plan, effective February 1, 2018.

On April 25, 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 May 10, 2018, to allow you time to submit supporting documents.

On April 30, 2018, NYSOH received your supporting documents by fax. The documents were made part of the record as Appellant's Exhibit #1 and the record was closed.

Findings of Fact

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

- 1) You testified that you and your spouse expect to file your tax return for 2018 with a tax filing status of married filing jointly. You and your spouse will claim two dependents on that tax return.

- 2) You are seeking insurance for yourself, your spouse, and your two children.
- 3) According to your NYSOH account, all household members were above the age of nineteen at the time of your application.
- 4) The application that was submitted on January 2, 2018 listed annual household income of \$38,933.05, consisting of income your spouse earns from his employment. This was based on the paystubs you submitted. You testified that he expects to earn less than \$30,000.00.
- 5) The record contains the following paystubs from your spouse:
 - a. dated December 7, 2017 for a gross amount of \$658.25;
 - b. dated December 14, 2017 for a gross amount of \$643.20;
 - c. dated December 14, 2017 for a gross amount of \$500.00;
 - d. dated December 21, 2017 for a gross amount of \$656.05;
 - e. dated December 28, 2017 for a gross amount of \$537.35;
 - f. dated January 4, 2018 for a gross amount of \$498.80;
 - g. dated January 4, 2018 for a gross amount of \$106.15;
 - h. dated January 11, 2018 for a gross amount of \$833.31;
 - i. dated January 18, 2018 for a gross amount of \$594.18;
 - j. dated January 25, 2018 for a gross amount of \$666.46;
 - k. dated February 1, 2018 for a gross amount of \$638.34; and,
 - l. dated February 8, 2018 for a gross amount of \$671.72.
- 6) Your spouse's December 28, 2017 paystub states that his year-to-date earnings for 2017 totaled \$34,853.79.
- 7) You testified that you expect your spouse's income to decrease in 2018 because he will no longer have as many hours or double shifts.
- 8) Your application states that you and your spouse will not be taking any deductions on your 2018 tax return.
- 9) Your application states that your household lives in [REDACTED], 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 \$24,600.00 for a four-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).

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 \$24,600.00 for a four-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).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you, your spouse, and your two children were eligible for the Essential Plan, effective February 1, 2018.

It is noted that your household was determined “conditionally” eligible for Medicaid as of January 1, 2018, pending proof of household income. This means your household’s eligibility for Medicaid was temporarily and not final and, once documentary proof allowed NYSOH to ascertain household income, your household’s eligibility would be redetermined.

Based on your spouse’s paystubs, on January 2, 2018, NYSOH recalculated your annual household income of \$38,933.05, and redetermined your household’s eligibility for financial assistance based on the paystubs you submitted. The eligibility determination relied upon that information.

Your household is in a four-person household for purposes of this analysis. This is because you and your spouse expect to file your 2018 income tax return as married filing jointly and will claim two dependents on that tax return.

The Essential Plan is generally 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 \$24,600.00 for a four-person household. Since an annual household income of \$38,933.05 is 158.56% of the 2017 FPL, NYSOH correctly found you, your spouse, and your two children to be eligible for the Essential Plan.

The second issue under review is whether NYSOH properly determined that you, your spouse, and your two children were not eligible for Medicaid as of February 1, 2018.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified

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adjusted gross income that is at or below 138% of the FPL for the applicable family size. On the date of your application, all household members were above the age of nineteen and the relevant FPL was \$24,600.00 for a four-person household. Since \$38,933.05 is 158.56% of the 2017 FPL, NYSOH properly found you, your spouse, and your two children to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application. Since your household was previously determined Medicaid eligible, a monthly analysis was not required.

Since the January 3, 2018 eligibility determination notice properly stated that, based on the information in the application, you, your spouse, and your two children were eligible for the Essential Plan and not eligible for Medicaid, it is correct at the time and is AFFIRMED.

However, at the hearing you testified that your spouse's income will be less in 2018, because he will no longer have as many hours or double shifts. Following the hearing, you submitted your spouse's paystubs that shows in January 2018 your household income was \$2,698.90.

To be eligible for Medicaid based on a monthly income, your household would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$2,829.00 per month. The documentation you provided shows that your household income was \$2,698.90 in January 2018.

Therefore, your case is RETURNED to redetermine your, your spouse's, and your two children's eligibility based on a monthly income of \$2,698.90 for a four-person household residing in [REDACTED], NY.

Decision

The January 3, 2018 eligibility determination notice is AFFIRMED as correct when made.

Your case is RETURNED to redetermine your, your spouse's, and your two children's eligibility based on a monthly income of \$2,698.90 for a four-person household residing in [REDACTED], NY.

Effective Date of this Decision: May 4, 2018

How this Decision Affects Your Eligibility

You, your spouse, and your two children were properly determined eligible for the Essential Plan as of February 1, 2018, at the time the January 3, 2018 eligibility determination notice was issued.

This is not a final determination of your household's eligibility.

Based on the evidence of record following the hearing, your case is being sent back to NYSOH to redetermine your, your spouse's, and your two children's eligibility based on the parameters noted above.

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

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).

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 January 3, 2018 eligibility determination notice is AFFIRMED as correct when made.

Your case is RETURNED to redetermine your, your spouse's, and your two children's eligibility based on a monthly income of \$2,698.90 for a four-person household residing in [REDACTED], NY.

You, your spouse, and your two children were properly determined eligible for the Essential Plan as of February 1, 2018, at the time the January 3, 2018 eligibility determination notice was issued.

This is not a final determination of your household's eligibility.

Based on the evidence of record following the hearing, your case is being sent back to NYSOH to redetermine your, your spouse's, and your two children's eligibility based on the parameters noted above.

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Legal Authority

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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. yeb&tumi ama wo obi a okyer& 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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