



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

Notice of Decision

Decision Date: April 5, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027472

[REDACTED]

[REDACTED]

On March 22, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 13, 2018 eligibility determination and disenrollment notices and the January 19, 2018 eligibility determination and enrollment confirmation notices.

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 Account ID at the top of this notice.

Legal Authority

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).

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

This page intentionally left blank.

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).



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

Decision

Decision Date: April 5, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027472



Issue

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

Did NY State of Health's properly determine that you were eligible for up to \$342.00 per month in advance payments of the premium tax credits and no longer eligible for or enrolled in the Essential Plan, effective February 1, 2018?

Procedural History

On December 28, 2017, you submitted an application for financial assistance.

On December 29, 2017, NY State of Health (NYSOH) issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective February 1, 2018. This notice directed you to submit documentation of your income by March 28, 2018 in order to confirm your eligibility for enrollment in the Essential Plan.

Also on December 29, 2017, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in your Essential Plan with a plan enrollment start date of February 1, 2018.

On January 5, 2018, income documentation was faxed to NYSOH.

On January 8, NYSOH uploaded the faxed income documentation to your NYSOH account.

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).

On January 12, 2018, NYSOH reviewed the income documentation you submitted, updated your income information based on that documentation, and submitted a new application on your behalf.

On January 13, 2018, NYSOH issued an eligibility determination stating that you were eligible to receive up to \$342.00 per month in advance payments of the premium tax credit and cost-sharing reductions for a limited time, effective February 1, 2018. You no longer qualified for the Essential Plan because your annual household income was over the income limit for that program. This notice directed you to submit documentation of your income by April 12, 2018.

Also on January 13, 2018, NYSOH issued a disenrollment notice stating that your coverage with the Essential Plan would end on February 1, 2018 because you were no longer eligible to enroll in the Essential Plan.

On January 18, 2018, you submitted an application for financial assistance by telephone. That day, a preliminary eligibility determination was prepared stating that you were eligible for the Essential Plan, effective March 1, 2018. You subsequently reenrolled into the Essential Plan.

Also on January 18, 2018, you spoke to NYSOH's Account Review Unit and appealed insofar as you did not have coverage in your Essential Plan for the month of February 2018.

On January 19, 2018, NYSOH issued a notice of eligibility determination, based on your January 18, 2018 application, stating that you were eligible to enroll in the Essential Plan for a limited time, effective March 1, 2018. This notice directed you to submit documentation of your income by April 18, 2018.

Also on January 19, 2018, NYSOH issued a notice of enrollment confirmation, based on your plan selection on January 18, 2018, stating that you were enrolled in your Essential Plan with a plan enrollment start date of March 1, 2018.

On March 22, 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 2018 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 2) You are seeking insurance for yourself.

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).

- 3) The application that was submitted on December 28, 2017 listed annual household income of \$18,000.00.
- 4) You testified that the income listed on your December 28, 2017 application was the result of self-employment income.
- 5) You testified that the income information you provided in your December 28, 2017 application was accurate, and was an estimate based on your income, before tax deductions at the end of 2017.
- 6) You testified that you were asked to provide documentation of your income. You faxed a copy your 2016 income tax return to NYSOH on January 5, 2018.
- 7) You testified that your 2016 income tax return, which reflected an adjusted gross income of \$9,086.00, was an unusually low income for that year.
- 8) Your 2016 income tax return reflects a total income of \$12,334.00, which is comprised of \$14.00 of taxable interest, \$6,383.00 in Ordinary Dividends, \$5,632.00 in Business Income, and \$3,305.00 in IRA Distributions, reduced by \$3,000.00 in Capital losses. Your 2016 income tax return also reflects a total deduction of \$3,248.00, resulting in an adjusted gross income of \$9,086.00 for 2016.
- 9) On January 12, 2018, NYSOH reviewed the income documentation you submitted on January 5, 2018, and recalculated your income to be \$27,454.00 (\$18,000 in self-employment income and \$14.00 of Taxable Interest, \$6,383.00 in Ordinary Dividends, \$3,000.00 in Business Income, and \$3,305.00 in IRA distributions as "additional income" as well as a total of \$3,248.00 in qualifying deductions consisting of \$398.00 in deductible part of self-employment tax, \$350.00 in health insurance deduction, and \$2,5000.00 in student loan interest deduction).
- 10) You testified that you updated your account on January 18, 2018.
- 11) You testified that you reduced your estimated income on your January 18, 2018 application to \$16,800.00 based on an estimated \$1,400.00 monthly income, because you believed the earlier estimate of \$18,000.00 was high.
- 12) On February 9, 2018, you faxed a letter in support of your appeal to NYSOH. That letter alleged that the change in your eligibility was the result of an error in the processing of your application. You testified that you did not receive the January 13, 2018 notice of eligibility determination until January 18, 2018, resulting in your missing the January 15, 2018 deadline to obtain a February 1, 2018 enrollment start date for your Essential Plan.

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).

13) Your application states, and you confirmed, that you live in Kings County.

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

Applicable Law and Regulations

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) 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 QHP, 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)).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2018 is set by federal law at 2.04% to 9.69% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc.2016-24).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of the January 12, 2018 application, that was the 2017 FPL, which is \$12,060.00 for a one-person household (81 Federal Register 4036).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on NYSOH application) with their actual income (stated on their federal income tax return).

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).

Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (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 QHP (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 federal poverty level (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 the January 12, 2018 application, that was the 2017 FPL, which is \$12,060.00 for a one-person household (81 Fed. Reg. 4036).

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/basic-health-program.html>).

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)).

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).

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)).

Legal Analysis

The only issue is whether NYSOH properly determined that you were eligible for up to \$342.00 per month in advance payments of the premium tax credits and no longer eligible for or enrolled in the Essential Plan, effective February 1, 2018.

You expect to file your 2018 income tax return with a filing status of single and will claim no dependents on that return. Therefore, you are in a one-person household.

Your December 28, 2017 application reflected \$18,000.00 in self-employment income, which you testified was based on the total income you made at the end of the 2017 year.

As a result of this application, you were found eligible for the Essential Plan for a limited time. You were asked to submit documentation in order to verify the income that was listed on your application.

On January 5, 2018, you faxed a copy of your 2016 income tax return to NYSOH.

On January 12, 2018, NYSOH validated your 2016 income tax return and updated the income information in your application. That day in addition to the \$18,000.00 that was already listed on your application as your source of income, an NYSOH representative also added \$14.00 of Taxable Interest, \$6,383.00 in Ordinary Dividends, \$3,000.00 in Business Income, and \$3,305.00 in IRA distributions as “additional income” as well as a total of \$3,248.00 in qualifying deductions. This resulted in an annual household income of \$27,454.00.

As a result, on January 13, 2018 you were found eligible for up to \$342.00 in advance payments of the premium tax credit and no longer eligible for the Essential Plan, you were subsequently disenrolled from your Essential Plan as of February 1, 2018.

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.

Your 2016 income tax return which the NYSOH representative allegedly relied upon when updating your application on January 12, 2018 lists a total income of \$12,334.00, which is comprised of \$14.00 of taxable interest, \$6,383.00 in Ordinary Dividends, \$5,632.00 in Business Income, and \$3,305.00 in IRA Distributions, reduced by \$3,000.00 in Capital losses. Your 2016 income tax return also reflects a total deduction of \$3,248.00, resulting in an adjusted gross income of \$9,086.00 for 2016.

Therefore, on January 12, 2018 a NYSOH representative incorrectly incorporated portions of your 2016 tax return into your account, resulting a household income \$27,454.00 which contains not only your expected annual income from 2018 (\$18,000.00), but \$14.00 of Taxable Interest, \$6,383.00 in Ordinary Dividends, \$3,000.00 in Business Income, and \$3,305.00 in IRA distributions as “additional income” and an additional income \$3,000.00 which was originally notated on your 2016 income tax return as a loss.

Therefore, the January 13, 2018 eligibility determination notice stating that you were eligible for up to \$342.00 in advance payments of the premium tax credit and no longer eligible for the Essential Plan is not supported by the record because it relied upon incorrect income information as updated by an NYSOH representative.

Accordingly, the January 13, 2018 eligibility determination notice and the January 13, 2018 disenrollment notice are RESCINDED.

On January 18, 2018 you updated your account and submitted an updated application for financial assistance. You testified that you reduced your estimated income on your January 18, 2018 application to \$16,800.00 based on an estimated \$1,400.00 monthly income, because you believed the earlier estimate of \$18,000.00 was high. As a result of this application, you were again found eligible for the Essential Plan.

Therefore, the January 19, 2018 notice of eligibility determination is MODIFIED to reflect an eligibility for the Essential Plan, effective of February 1, 2018, and the January 19, 2018 notice of enrollment confirmation is MODIFIED to reflect an Essential Plan enrollment start date of February 1, 2018.

Decision

The January 13, 2018 notice of eligibility determination is RESCINDED.

The January 13, 2018 disenrollment notice is RESCINDED.

The January 19, 2018 notice of eligibility determination is MODIFIED to reflect an eligibility effective date of February 1, 2018.

The January 19, 2018 notice of enrollment confirmation is MODIFIED to reflect an enrollment start date of February 1, 2018

Your case is RETURNED TO NYSOH to reinstate you into your Essential Plan as of February 1, 2018.

Effective Date of this Decision: April 5, 2018

How this Decision Affects Your Eligibility

NYSOH incorrectly calculated your annual income in the January 12, 2018 application.

You should have remained eligible for the Essential Plan.

Your case is being sent back to NYSOH to reinstate you into your Essential Plan as of February 1, 2018.

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 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).

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 January 13, 2018 notice of eligibility determination is RESCINDED.

The January 13, 2018 disenrollment notice is RESCINDED.

The January 19, 2018 notice of eligibility determination is MODIFIED to reflect an eligibility effective date of February 1, 2018.

The January 19, 2018 notice of enrollment confirmation is MODIFIED to reflect an enrollment start date of February 1, 2018

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).

NYSOH incorrectly calculated your annual income in the January 12, 2018 application.

You should have remained eligible for the Essential Plan.

Your case is RETURNED TO NYSOH to reinstate you into your Essential Plan as of February 1, 2018.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

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 srε wo, frε 1-855-355-5777. ye&εtumi 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.

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).

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).