

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

#### Notice of Decision

Decision Date: March 28, 2018

NY State of Health Account ID:

Appeal Identification Number: AP000000027666



On March 14, 2018, you and your authorized representative appeared by telephone at a hearing on your appeal of NY State of Health's January 16, 2018 and January 24, 2018 eligibility determination 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 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.



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

#### Decision

Decision Date: March 28, 2018

NY State of Health Account ID:

Appeal Identification Number: AP000000027666



#### 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 your eligibility for the Essential Plan ended, effective January 31, 2018?

Did NYSOH determine that you were eligible to receive up to \$266.00 per month in advance payments of the premium tax credit, effective March 1, 2018?

Did NYSOH properly determine that you were eligible for cost-sharing reductions, effective March 1, 2018?

Did NYSOH properly determine that you were not eligible for the Essential Plan, effective March 1, 2018?

# **Procedural History**

On October 12, 2017, you applied for health insurance and financial assistance through NYSOH. Also on October 12, 2017 you uploaded paystubs to your NYSOH account.

On October 13, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan, for a limited time, effective November 1, 2017. The notice further directed you to provide documentation confirming your household income by January 10, 2018. The tenth page of this notice states that you must report all of the income for your household, including income for household members who are not applying for coverage.

Also on October 13, 2017, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective November 1, 2017.

Finally, on October 13, 2017, NYSOH reviewed the paystubs you had submitted and determined them invalid.

On October 16, 2017, NYSOH issued a notice of invalid documentation stating that the documentation reviewed does not confirm the information in your application. The notice further directed you to provide documentation confirming your household income by January 10, 2018.

No further income documentation was submitted by January 10, 2018.

On January 16, 2018, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost and that you were no longer eligible for the Essential Plan as of February 1, 2018. The notice stated that you were not eligible to enroll in the Essential Plan because NYSOH did not receive the income documentation needed to verify the income listed in your application.

Also on January 16, 2018, NYSOH issued a disenrollment notice stating that your enrollment in the Essential Plan would end as of January 31, 2018, because you were no longer eligible to remain in your plan.

On January 23, 2018, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible for advance payments of the premium tax credit (APTC) up to \$266.00 per month as well as cost-sharing reductions if you enrolled in a silver level qualified health plan, for a limited time. You selected a silver level qualified health plan for enrollment on that day.

Also on January 23, 2018, you spoke to NYSOH's Account Review Unit and appealed that preliminary eligibility determination insofar as you were no longer eligible for the Essential Plan.

On January 24, 2018, NYSOH issued a notice of eligibility determination, based on your January 23, 2018 application, stating that you were eligible for APTC as well as cost-sharing reductions if you enrolled in a silver level qualified health plan, for a limited time, both effective March 1, 2018. That notice also stated that

you were not eligible for the Essential Plan because your annual household income was over the allowable income limit for that program.

Also on January 24, 2018, NYSOH issue a notice of enrollment, based on your plan selection on January 23, 2018, stating that you were enrolled in a silver-level qualified health plan, effective March 1, 2018.

On February 9, 2018, NYSOH issued a notice stating that you were eligible for the Essential Plan, for a limited time, effective February 1, 2018. This was because you had been granted Aid to Continue pending the outcome of your appeal.

On February 9, 2018, NYSOH issued an enrollment confirmation notice stating that you were enrolled in the Essential Plan, effective February 1, 2018.

On March 14, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you appointed as your authorized representative. You also clarified the issue insofar as you were disputing your disenrollment from the Essential Plan for failure to submit income documentation. The record was developed during the hearing and closed that day.

## Findings of Fact

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

- 1) You testified, and your application indicates, that you receive all of your notices from NYSOH via regular mail.
- 2) On October 12, 2017 you submitted an application to NYSOH. That application listed annual household income for yourself of \$28,080.00 and annual household income for your daughter of \$2,376.67.
- 3) You submitted income documentation to NYSOH on October 12, 2017 consisting of four consecutive paystubs from your employer.
- 4) On October 13, 2017, NYSOH found those documents to be invalid proof of your household income because there were no income documents submitted for your child's employment.
- 5) You testified that you were not told that you needed to submit documentation of your child's income in any of the notices that you received.

- 6) You testified that you did not receive any notice stating that the income documentation you submitted was invalid.
- 7) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 8) Your NYSOH account indicates that on January 15, 2018 your application was run and you were found no longer eligible for the Essential Plan as of January 31, 2018.
- 9) You updated the income information in your NYSOH account on January 23, 2018, specifically changing your child's expected income from \$2,376.67 to \$0.
- 10) You testified that you expect to file your tax return for 2018 with a tax filing status of head of household. You will claim one dependent on that tax return.
- 11) You are seeking insurance for yourself.
- 12) The application that was submitted on January 23, 2018 listed annual household income of \$36,400.00, consisting of \$700.00 per week you earn from your employment. You testified that this amount was correct.
- 13) Your application states that you will not be taking any deductions on your 2018 tax return.
- 14) Your application states that you live in Wyoming County.

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

# **Applicable Law and Regulations**

#### Eligibility and Verification for the 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 noncitizen 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 \$16,240.00 for a two-person household (82 Fed. Reg. 8831).

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).

NYSOH must verify the eligibility of an applicant for the Essential Plan consistent with the standards set in 45 CFR § 155.315 and § 155.320 (New York's Basic Health Plan Blueprint, pgs. 16-17, as approved January 2016; see https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf; 42 CFR § 600.345(a)(2)).

An applicant is required to attest to their household's projected annual income. (45 CFR § 155.320(c)(3)(ii)(B)). For all individuals whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security in order to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant in order to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

#### Advance Payments of Premium Tax Credit

APTC are generally available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45

CFR § 155.305(f), 26 CFR § 1.36B-2, 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 2.01% to 9.56% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3, IRS Rev. Proc. 2017-36).

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 your application, that was the 2017 FPL, which is \$16,240.00 for a two-person household (82 Federal Register 8831).

For annual household income in the range of at least 200% but less than 250% of the 2017 FPL, the expected contribution is between 6.34% and 8.10% of the household income (26 CFR § 1.36B-3(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2017-36).

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). 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 are available to a person who (1) is eligible to enroll in a qualified health plan 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 qualified health plan (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

#### Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

## Legal Analysis

The first issue under review is whether NYSOH properly determined that your eligibility for the Essential Plan ended effective January 31, 2018.

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.

On October 12, 2017 you submitted an application to NYSOH. That application listed annual household income for yourself of \$28,080.00 and annual household income for your daughter of \$2,376.67.

In the eligibility determination issued on October 13, 2017, you were advised that you were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income by January 10, 2018. The tenth page of this notice states that you must report all of the income for your household, including income for household members who are not applying for coverage

The record reflects that you submitted income documentation to NYSOH on October 12, 2017 consisting of four consecutive paystubs from your employer. However, on October 13, 2017, NYSOH found those documents to be invalid proof of your household income because there were no income documents submitted for your child's employment.

NYSOH sent you a notice on October 16, 2017 stating the documents submitted were insufficient and requested additional documentation by January 10, 2018.

You testified that you did not receive any notice from NYSOH telling you that you needed to provide income documentation for your daughter to confirm your eligibility or stating that your documentation was invalid. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account which at the time of your October 12, 2017 application included \$2,376.67 from your child's employment.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation.

Accordingly, your eligibility for the Essential Plan terminated as of January 31, 2018 because you did not submit sufficient documentation to verify the information listed on your October 12, 2017 application and you did not adequately demonstrate that you could not provide documentation to confirm your household income.

Since the NYSOH properly found that your eligibility in the Essential Plan terminated as of January 31, 2018, the January 16, 2018 eligibility determination is AFFIRMED.

The second issue is whether NYSOH properly determined that you were eligible to receive up to \$266.00 per month in advance payments of the premium tax credit, effective March 1, 2018.

The record reflects that you updated your application on January 23, 2018. That application listed an annual household income of \$36,400.00 and the eligibility determination relied upon that information. You testified during the hearing that this was an accurate representation of your annual household income.

You are in a two-person household. You expect to file your 2018 income tax return as head of household and will claim one dependent on that tax return.

You reside in Wyoming County, where the second lowest cost silver plan available for an individual through NYSOH costs \$484.24 per month.

An annual income of \$36,400.00 is 224.14% of the 2017 FPL for a two-person household. At 224.14% of the FPL, the expected contribution to the cost of the health insurance premium is 7.18% of income, or \$217.79 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through NYSOH for an individual in your county (\$484.24 per month) minus your expected contribution (\$217.79 per month), which equals \$266.45 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$266.00 per month in APTC.

When an individual changes information in their application after the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the next following month. Additionally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected after the fifteenth day of a month goes into effect on the first day of the following month.

Since you updated your information on January 23, 2018 and submitted a request to enroll in a qualified health plan, your eligibility and enrollment would therefore begin on the first day of the next following month after January that is on March 1, 2018.

Therefore, NYSOH properly determined that your enrollment in your qualified health plan as well as your advance premium tax credits began on March 1, 2018.

The third issue is whether you were properly determined eligible for cost-sharing reductions.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$36,400.00 is 224.14% of the applicable FPL, NYSOH correctly found you to be eligible for cost-sharing reductions.

The fourth issue is whether NYSOH properly determined that you were not eligible for the Essential Plan.

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 \$16,240.00 for a two-person household. Since an annual household income of \$36,400.00 is 224.14% of the 2017 FPL, NYSOH correctly found you to be ineligible for the Essential Plan.

Since the January 24, 2018 eligibility determination notice properly stated that, based on the information you provided, you were eligible for up to \$266.00 per month in APTC, eligible for cost-sharing reductions, and ineligible for the Essential Plan, effective March 1, 2018, it is correct and is AFFIRMED.

### Decision

The January 16, 2018 notice of eligibility determination is AFFIRMED.

The January 24, 2018 notice of eligibility determination is AFFIRMED.

Effective Date of this Decision: March 28, 2018

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

NYSOH properly that your eligibility in the Essential Plan ended, effective January 31, 2018, because you did not provide valid documentation of your household's income based on your October 12, 2017 application.

You remain eligible for up to \$266.00 in APTC.

You are eligible for cost-sharing reductions.

You are ineligible for the Essential Plan.

# If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- 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 16, 2018 notice of eligibility determination is AFFIRMED.

NYSOH properly that your eligibility in the Essential Plan ended, effective January 31, 2018, because you did not provide valid documentation of your household's income based on your October 12, 2017 application.

The January 24, 2018 notice of eligibility determination is AFFIRMED.

You remain eligible for up to \$266.00 in APTC, effective March 1, 2018.

You remain eligible for cost-sharing reductions, effective March 1, 2018.

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

You are not eligible for the Essential Plan.

# 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.

## <u>한국어 (Korean)</u>

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.

#### (Arabic)العربية

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 5777-355-855-1. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

#### বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নিখি। 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।

#### 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:शूल्क दोभाषे उपलब्ध गराउन सक्छों।

#### 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. yebetumi ama wo obi a okyere 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 کرم5777-355-855-1 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.