



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

## Notice of Decision

Decision Date: April 12, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027737

[REDACTED]

[REDACTED]

On March 22, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 24, 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: April 12, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027737

[REDACTED]

## Issues

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

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

Did NY State of Health properly determine that you were ineligible for Medicaid?

## Procedural History

On January 19, 2018, you applied for health insurance and financial assistance through NY State of Health (NYSOH).

Also on January 19, 2018, you uploaded income documentation to your NYSOH account.

Additionally, on January 19, 2018, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account.

On January 20, 2018, NYSOH issued a notice stating that the income information in your application did not match what NYSOH had received from state and federal data sources. This notice directed you to submit proof of your income by February 1, 2018 in order for your eligibility for financial assistance to be determined.

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Also on January 20, 2018, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application and that additional documentation of your income was due by February 16, 2018.

On January 23, 2018, you uploaded additional income documentation to your NYSOH account.

Also on January 23, 2018, NYSOH reviewed the income documentation you submitted, recalculated your annual expected income based on this documentation, and submitted an updated application on your behalf.

On January 24, 2018, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan, effective March 1, 2018. That notice stated that you were not eligible for Medicaid because your annual household income was over the allowable income limit for that program.

Also on January 24, 2018, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination notice insofar as you were not eligible for Medicaid.

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 held open until April 5, 2018, to allow you time to submit supporting documents.

On March 26, 2018, the NYSOH Appeals Unit received your supporting documents via fax. The documents, consisting of seven of your paystubs, were incorporated into 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 expect to file your 2018 tax return with a tax filing status of single, and you will not claim any dependents on that tax return.
- 2) You are seeking insurance for yourself. You testified that you are seeking to be found eligible for Medicaid.
- 3) The application that you submitted on January 19, 2018 listed annual expected income of \$15,672.80.
- 4) On January 19, 2018, you uploaded three paystubs to your NYSOH; the first is for pay date December 29, 2017 for a gross pay amount of \$390.32; the second is for pay date January 5, 2018 for a gross pay

amount of \$357.72; the third is for pay date January 19, 2018, a gross pay amount of \$301.40, and a gross year to date amount of \$1,010.02.

- 5) On January 19, 2018, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your application as you had only submitted three recent paystubs, and four recent paystubs were required.
- 6) On January 23, 2018, you uploaded one additional paystub to your NYSOH account for pay date January 12, 2018 for a gross pay amount of \$350.90.
- 7) Also on January 23, 2018, NYSOH recalculated your annual expected income to be \$18,204.42 utilizing the four most recent paystubs on your account (four weeks gross earnings of \$1,400.34 divided by four for a weekly average of \$350.09 multiplied by 52 weeks).
- 8) You testified that the paystubs you had previously submitted showed additional hours you were working in 2017 and that your hours have since been reduced.
- 9) You testified that your annual expected income is currently \$16,000.00.
- 10) You testified that you began working for your current employer in October 2017, and that since November 2017 this has been your only employer. You testified that you are paid on a weekly basis.
- 11) You testified that you are not sure what your gross earnings for December 2017 and January 2018 were.
- 12) Your application states that you will not be taking any deductions on your 2018 tax return.
- 13) You testified that you believe you will take a deduction for student loan interest and tuition payments for 2018, but you are not sure what the amount of these deductions will be.
- 14) Your application states, and you confirmed, that you live in Queens County.
- 15) You testified that you have bills including student loan payments, personal loan payments, and a car loan payment which you would like considered when determining your eligibility for financial assistance.
- 16) On March 26, 2018, the NYSOH Appeals Unit received via fax copies of seven of your paystubs; the first is for pay date December 15, 2017 for a

gross pay amount of \$351.27; the second is for pay date February 2, 2018 for a gross pay amount of \$305.58 and a gross year to date amount of \$1,619.42; the third is for pay date February 9, 2018 for a gross pay amount of \$320.10; the fourth is for pay date March 2, 2018 for a gross pay amount of \$318.12; the fifth is for pay date March 9, 2018 for a gross pay amount of \$315.92; the sixth is for pay date March 16, 2018 for a gross pay amount of \$253.55; the seventh is for pay date March 23, 2018 for a gross pay amount of \$328.02 and a gross year to date amount of \$3,782.78.

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

## **Applicable Law and Regulations**

### Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable FPL or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application that was the 2017 FPL, which is \$12,060.00 for a one-person household (82 Fed. Reg. 8831).

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

The Essential Plan is considered minimum essential coverage; therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax

credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

### Medicaid

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2018 FPL, which is \$12,140.00 for a one-person household (83 Fed. Reg. 2642).

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

### Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross federal taxable income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income (*id.*).

Qualified tuition and related expenses may be deducted from gross federal taxable income for qualified education expenses of higher education, such as a college, university, vocational school, or other postsecondary educational institution eligible to participate in a student aid program administered by the U.S.

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Department of Education, which expenses are paid for an eligible student, when the student is the taxpayer, taxpayer's spouse, or is a dependent for whom the taxpayer can claim an exemption on their tax return (26 USC §222(a), IRS Pub 970 (2016) pg. 37-38).

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 (26 USC § 221; see also 26 USC §62 (17)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined you were eligible for the Essential Plan, effective March 1, 2018.

You expect to file your 2018 income tax return as single and will not claim any dependents on that tax return.

On January 23, 2018 calculated your annual expected income to be \$18,204.42. This was based on the four most recent paystubs in your account as of that time, that being the December 29, 2017 paystub for a gross pay amount of \$390.32, the January 5, 2018 paystub for a gross pay amount of \$357.72, the January 12, 2018 paystub for a gross pay amount of \$350.90, and the January 19, 2018 paystub for a gross pay amount of \$301.40. This is based on a combined gross amount of \$1,400.34, divided by four weeks for a weekly average of \$350.09, multiplied by 52 weeks, for an annual expected income of \$18,204.42.

During the hearing, you testified that you had been working more hours during the time period covered by these paystubs, and that your actual annual expected income is less than \$18,204.42.

Additionally, during the hearing you requested that your current expenses which include personal loan payments, student loan payments, and car loan payments be considered when calculating your annual household income.

Since Internal Revenue Service rules do not allow personal loans or personal car loans to be deducted from the calculation of your adjusted gross income, they cannot be deducted when NYSOH computes your modified adjusted gross income for the purpose of determining your eligibility for financial assistance.

Although interest on qualified educational loans can be deducted from adjusted gross income in an amount up to \$2,500.00, the entire payment amount is not deductible from adjusted gross income pursuant to internal revenue service rules.

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Student loan interest may be deducted from modified adjusted gross as well as a portion of qualified tuition. However, you were unable to provide the expected amount of these deductions. Additionally, your application does not include these deductions.

Therefore, NYSOH properly calculated your annual expected income to be \$18,204.42 based on the information that you provided and applying Internal Revenue Service rules.

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 \$12,060.00 for a one-person household. Since an annual household income of \$18,204.42 is 150.95% of the 2017 FPL, NYSOH correctly found you to be eligible for the Essential Plan.

The second issue is whether NYSOH properly determined that you were ineligible for Medicaid.

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 adjusted gross income that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$12,140.00 for a one-person household. Since \$18,204.42 is 149.95% of the 2018 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the January 24, 2018 eligibility determination notice properly stated that, based on the information you provided, you were eligible for the Essential Plan and ineligible for Medicaid, it is correct and is AFFIRMED.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

You submitted paystub that shows in January 2018 you received \$1,313.84.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,397.00 per month.

However, as you have submitted additional documentation, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance based on a household of one residing in Queens County, with a monthly household income of \$1,313.84.

## **Decision**

The January 24, 2018 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance based on a household of one residing in Queens County, with a monthly household income of \$1,313.84.

**Effective Date of this Decision:** April 12, 2018

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

This is not a final determination of your eligibility.

Your case is being sent back to redetermine your eligibility for financial assistance based on information you provided during your hearing.

### **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)).

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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 24, 2018 eligibility determination notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to redetermine your eligibility for financial assistance based on a household of one residing in Queens County, with a monthly household income of \$1,313.84.

This is not a final determination of your eligibility.

Your case is being sent back to redetermine your eligibility for financial assistance based on information you provided during your hearing.

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).

## **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 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।

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