



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

## Notice of Decision

Decision Date: April 23, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027900

[REDACTED]

On March 22, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 27, 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 23, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027900



## 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 to receive up to \$51.00 per month in advance payments of the premium tax credit, effective February 1, 2018?

Did NY State of Health properly determine that you were not eligible for cost-sharing reductions?

Did NY State of Health properly determine that you were not for the Essential Plan?

Did NY State of Health properly determine that you were not eligible for Medicaid?

## Procedural History

On January 26, 2018, you applied for health insurance and financial assistance through NYSOH. That day, a preliminary eligibility determination was prepared stating that you were eligible to receive up to \$51.00 in advance payments of the premium tax credit (APTC) for a limited time, effective February 1, 2018. You were also determined to be not eligible for cost-sharing reductions.

Also on January 26, 2018, you spoke to NYSOH's Account Review Unit and appealed that preliminary eligibility determination insofar as you were not eligible for an increased amount of financial assistance.

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On January 27, 2018, NYSOH issued an eligibility determination notice, consistent with the preliminary eligibility determination, stating that you were eligible to receive up to \$51.00 in advance payments of the premium tax credit (APTC), effective February 1, 2018. That notice also stated that you were not eligible for cost-sharing reductions and Medicaid because your annual household income was over the allowable income limits for those programs.

On February 28, 2018, you submitted a copy of your Decree of Legal Separation (see Document [REDACTED]).

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 to April 22, 2018, to allow you time to submit supporting documents.

On April 2, 2018, NYSOH received your supporting documents by fax. The documents were incorporated into the record as Appellant's Exhibit # A and the record was closed.

## **Findings of Fact**

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

- 1) According to your NYSOH account, you expect to file your income tax return as married filing jointly and will claim no dependents on that tax return.
- 2) You testified that this is incorrect for 2018, as you are legally separated and will file your 2018 income tax return as single with no dependents.
- 3) On February 28, 2018, you submitted a Decree of Legal Separation which shows that, as of [REDACTED], you and your spouse were legally separated (see Document [REDACTED]).
- 4) You are seeking health insurance for yourself.
- 5) The application that was submitted on January 26, 2018 listed annual household income of \$59,000.00, consisting of \$35,000.00 you expect to receive in IRA distributions and \$24,000.00 your spouse expects to receive in retirement income, consisting of \$16,000.00 in pension income and \$8,000.00 in Social Security benefits. You testified that this amount was correct for the tax year 2017.
- 6) According to your NYSOH account and testimony, you expect your 2018 income to be approximately \$32,010.00.

- 7) You testified, and provided documentation to show, that your monthly income for January 2018 was \$0.00.
- 8) You testified that you had no earned income in 2017 because you had just returned from [REDACTED] and lived off periodic [REDACTED]. You further testified that you did not receive any distributions or earned income in January 2018, because you were still looking for work and receiving help from family after having moved to New York from [REDACTED].
- 9) On April 2, 2018, you submitted a copy of your [REDACTED] [REDACTED] dated January 1, 2018 through March 31, 2018, showing that there were no distributions in the month of January 2018 (see [REDACTED] [REDACTED]).
- 10) You also submitted a copy of your 2017 IRS transcript which shows that the only income you received in 2017 was income from IRA distributions (see [REDACTED]).
- 11) You also submitted a paystub, dated March 29, 2018, showing that this was the first paystub you received in the amount of \$158.25 (see [REDACTED]).
- 12) According to your NYSOH account and testimony, you will not be taking any deductions on your 2018 tax return.
- 13) You testified that you would like to have your eligibility redetermined for Medicaid so that you can have affordable insurance.
- 14) Your application states that you live in [REDACTED], NY.

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

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)).

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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 300% but less than 400% of the 2017 FPL, the expected contribution is 9.56% 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)).



## 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 \$16,240.00 for a two-person household (82 Fed. Reg. 8831).

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

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

The Essential Plan is considered minimum essential coverage. Therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

## 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

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\$12,140.00 for a one-person household and \$16,460.00 for a two-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).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that you were eligible for up to \$51.00 per month in APTC.

The application that was submitted on January 26, 2018 listed an annual household income of \$59,000.00, and the eligibility determination relied upon that information.

According to your NYSOH account at the time, you expected to file your income tax return as married filing jointly and would not be claiming any dependents on that tax return. Since this is the information you provided to NYSOH at that time, for purposes of these analyses, you are in a two-person household.

You reside in Niagara County, where the second lowest cost silver plan available for an individual through NYSOH costs \$520.90 per month.

An annual income of \$59,000.00 is 363.30% of the 2017 FPL for a one-person household. At 363.3% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$470.03 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 (\$520.90 per month) minus your expected contribution (\$470.03 per month), which equals \$50.86 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$51.00 per month in APTC, based on the information you provided.

The second issue under review is whether you were properly determined ineligible 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 \$59,000.00 is 363.30% of the applicable FPL, NYSOH correctly found you to be ineligible for cost sharing reductions.

The third issue under review is whether NYSOH properly determined you were ineligible 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 \$59,000.00 is 363.30% of the 2017 FPL, NYSOH correctly found you to be ineligible for the Essential Plan, based on the information you provided.

The fourth issue under review 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 \$16,460.00 for a two-person household. Since \$59,000.00 is 358.44% 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.

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

On February 28, 2018, you submitted a Decree of Legal Separation which shows that, as of [REDACTED], you and your spouse were legally separated (see Document [REDACTED]).

On April 2, 2018, you submitted a copy of your [REDACTED], dated January 1, 2018 through March 31, 2018, showing that there were no distributions in the month of January 2018, along with your 2017 IRS Transcript, which shows that the only income you received in 2017 was income from IRA distributions. You also submitted a paystub, dated March 29, 2018, showing that this was the first paystub you received in the amount of \$158.25 (see [REDACTED]).

All of these documents corroborate your testimony that you are legally separated, that you will file your 2018 income tax return as single and that you did not receive any distributions or earned income in January 2018 because you were still looking for work and receiving help from family after having moved to New York from [REDACTED]. As such, it is determined that you reside in a household size of one-person and had an income of \$0.00 for the month of January 2018.

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 \$0.00 per month.

Since your January 27, 2018 eligibility determination notice properly stated that, based on the information you provided, you were eligible for up to \$51.00 per month in APTC, ineligible for cost-sharing reductions, ineligible for the Essential Plan and ineligible for Medicaid, it is correct and is AFFIRMED.

However, because the record now contains a more accurate representation of your household size and what your household income was for the month of January 2018, your case is RETURNED to NYSOH to consider your request for Medicaid coverage, effective January 1, 2018, using a one-person household with an expected monthly income of \$0.00, for an individual living in [REDACTED], New York.

## **Decision**

The January 27, 2018 eligibility determination notice is AFFIRMED as correct when made.

Your case is RETURNED to NYSOH to consider your request for Medicaid coverage, effective January 1, 2018, using a one-person household with an expected monthly income of \$0.00, for an individual living in [REDACTED], New York.

NYSOH is directed to notify you of its redetermination and what further action may be required on your part, if applicable.

**Effective Date of this Decision:** April 23, 2018

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

This is not a final determination of your eligibility.

Your case is sent back to NYSOH to redetermine your 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

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dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

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

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

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

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

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:  
Health Insurance Marketplace  
Attn: Appeals  
465 Industrial Blvd.  
London, KY 40750-0061
- By fax: 1-877-369-0129

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

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- By fax: 1-855-900-5557

## **Summary**

The January 27, 2018 eligibility determination notice is AFFIRMED as correct when made.

Your case is RETURNED to NYSOH to consider your request for Medicaid coverage, effective January 1, 2018, using a one-person household with an expected monthly income of \$0.00, for an individual living in [REDACTED], New York.

NYSOH is directed to notify you of its redetermination and what further action may be required on your part, if applicable.

This is not a final determination of your eligibility.

Your case is sent back to NYSOH to redetermine your eligibility based on the parameters noted above.

## **Legal Authority**

We are sending you this notice 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)**

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### **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.