



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

Notice of Decision

Decision Date: May 16, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028469



Dear [REDACTED]

On April 27, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's February 6, 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 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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Decision

Decision Date: May 16, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP0000000028469



Issue

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

Did NY State of Health (NYSOH) properly determine that you did not qualify for a special enrollment period as of February 5, 2018?

Procedural History

On January 19, 2018, you submitted an application for financial assistance through NYSOH.

Also on January 19, 2018, you uploaded income documentation to your NYSOH account (see Document [REDACTED]).

On January 20, 2018, NYSOH issued three notices:

- (1) An eligibility determination notice stating, in relevant part, that you were eligible for up to \$281.00 in APTC for a limited time, effective March 1, 2018. The notice instructed you to provide proof of income by April 19, 2018, to confirm your eligibility;
- (2) A plan enrollment notice stating, in relevant part, that as of January 19, 2018, you were enrolled in a QHP with an enrollment start date of March 1, 2018. The notice instructed you to provide proof of income by April 19, 2018, to confirm your eligibility; and,

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) A notice stating that the documentation reviewed did not confirm the information in your application. The notice instructed you to submit additional income documentation by April 19, 2018.

Also on January 20, 2018, you uploaded income documentation to your NYSOH account (see Document [REDACTED]).

On January 22, 2018, NYSOH updated your account.

On January 23, 2018, NYSOH issued three notices:

- (1) A notice stating that the documentation reviewed did not confirm the information in your application. The notice instructed you to submit additional income documentation by February 6, 2018, to confirm your eligibility;
- (2) A notice stating that the income information in your application did not match what NYSOH received from state and federal data sources. The notice instructed you to submit additional income documentation by February 6, 2018, to confirm your eligibility;
- (3) A disenrollment notice stating that your QHP coverage would end as of March 1, 2018, because you were no longer eligible to enroll in that health plan.

Also on January 23, 2018, you uploaded income documentation to your NYSOH account (see Document [REDACTED]) and your NYSOH account was updated.

On January 24, 2018, NYSOH issued an eligibility determination notice stating that you were eligible for a tax credit up to \$281.00 per month and ineligible for Medicaid, effective March 1, 2018. The notice instructed you to select a plan, and you would receive written confirmation from NYSOH once a plan had been selected.

On February 5, 2018, you spoke with NYSOH's Account Review Unit and requested an appeal because you were denied a special enrollment period.

Your telephone hearing with NYSOH's Appeals Unit was scheduled for April 19, 2018; however, on April 2, 2018, you contacted NYSOH and requested that your hearing be rescheduled.

On April 27, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, and the record was left open to allow you to submit your 2017 Form 1040 U.S. Individual Tax

Return and 2017 Form 1120S U.S. Income Tax Return for an S Corporation to NYSOH's Appeals Unit.

On April 29, 2018, you uploaded your Individual and S corporation tax returns to your NYSOH account (see Documents [REDACTED] [REDACTED] [REDACTED]). That documentation has been incorporated into the record. The record is now complete and closed.

Findings of Fact

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

- 1) According to your NYSOH account and testimony, you are applying for health insurance for yourself.
- 2) You testified that you want to be enrolled in health insurance through NYSOH, prospectively.
- 3) According to your NYSOH account, on January 19, 2018, you were enrolled in a bronze-level QHP with an enrollment start date of March 1, 2018.
- 4) According to your NYSOH account, on January 22, 2018, NYSOH calculated your expected yearly income to be \$7,571.04. Based on that calculation, you were determined eligible for Medicaid pending the submission of income documentation.
- 5) According to your NYSOH account, on January 22, 2018, your QHP enrollment was discontinued and deleted from your account.
- 6) You testified that you did not discover that your QHP had been discontinued until you accessed your NYSOH account and noticed that your enrollment had disappeared.
- 7) According to your NYSOH account, on January 23, 2018, you reapplied for financial assistance and attested to annual household of \$32,000.04.
- 8) According to your NYSOH account, on February 5, 2018, you attempted to reenroll in a QHP.
- 9) According to your NYSOH account and testimony, you expect to file a 2018 federal income tax return with the tax status of single, and do not expect to claim any dependents on that tax return.

- 10) You testified that you are the [REDACTED] of the [REDACTED]. Further, [REDACTED] was formed in February 2017, and that is your only source of income.
- 11) On January 19, 2018, you uploaded a Profit-Loss Statement from October 1, 2017 through December 31, 2017 for [REDACTED] (see Document [REDACTED]). The statement reflects that [REDACTED] had a net income of:
- (a) -\$257.93 for October 2017;
 - (b) \$13,155.80 for November 2017; and,
 - (c) -\$12,093.47 for December 2017.
- 12) On April 29, 2018, you uploaded your 2017 Form 1040 U.S. Individual Tax Return to your NYSOH account. The return reflects that you were issued \$436.00 in ordinary dividends and \$392.00 in capital gains. Based on those sources of income, your adjusted gross income was \$828.00 in 2017 (see Document [REDACTED]).
- 13) On April 29, 2018, you uploaded your 2017 Form 1120S U.S. Individual Tax Return for an [REDACTED] to your NYSOH account. Line 21 of the return reflects that [REDACTED] had a business income (loss) of -\$4,170.00 in 2017 (see Document [REDACTED]).
- 14) According to your NYSOH account, you reside in [REDACTED] New York.

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

Applicable Law and Regulations

Open Enrollment Period

NYSOH must provide annual open enrollment periods during which time qualified individuals may enroll in a QHP and enrollees may change QHPs (45 CFR § 155.410(a)(1)).

For the benefit year beginning on January 1, 2018, the national annual open enrollment period began on November 1, 2017 and extended through December 15, 2017 (45 CFR § 155.410(e)(3)). NY State extended this enrollment period through January 31, 2018 for applications processed through NYSOH (https://www.health.ny.gov/press/releases/2017/2017-09-07_open_enrollment_dates.htm).

Special Enrollment Periods

After each open enrollment period ends, NYSOH provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a qualified health plan, and an enrollee may change their enrollment to another plan. This is generally permitted when one of the following triggering events occur:

- (1) The qualified individual or his or her dependent either:
 - (i) Loses minimum essential coverage.
 - (ii) Is enrolled in any non-calendar year group health plan or individual health insurance coverage, even if the qualified individual or his or her dependent has the option to renew such coverage.
 - (iii) Loses pregnancy-related coverage.
 - (iv) Loses medically needy coverage as described under section 1902(a)(10)(C) of the Social Security Act only once per calendar year.
- (2)(i) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care, or through a child support order or other court order.
 - (ii) the enrollee loses a dependent or is no longer considered a dependent through divorce or legal separation as defined by State law in the State in which the divorce or legal separation occurs, or if the enrollee, or his or her dependent, dies.
- (3) The qualified individual, or his or her dependent, becomes newly eligible for enrollment in a qualified health plan because he or she gains citizenship, status as a national, or lawful present or is no longer incarcerated.
- (4) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a qualified health plan is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, misconduct, or inaction of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities.
- (5) The enrollee or, his or her dependent adequately demonstrates to NYSOH that the qualified health plan in which he or she is enrolled

substantially violated a material provision of its contract in relation to the enrollee;

(6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or change in eligibility for cost-sharing reductions.

(7) The qualified individual or enrollee, or his or her dependent, gains access to new qualified health plan as a result of a permanent move and either—

(i) Had minimum essential coverage for one or more days during the 60 days preceding the date of the permanent move, or

(ii) Was living outside of the United States or in a United States territory at the time of the permanent move;

(8) The qualified individual or dependent who gains or maintains status as an Indian may enroll in a qualified health plan or change from one plan to another, once per month.

(9) The qualified individual or enrollee, or his or her dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide;

(10) A qualified individual or enrollee—

(i) Is a victim of domestic abuse or spousal abandonment, including a dependent or unmarried victim within a household, is enrolled in minimum essential coverage and seeks to enroll in coverage separate from the perpetrator of the abuse or abandonment; or

(ii) Is a dependent of a victim of domestic abuse or spousal abandonment, on the same application as the victim, may enroll in coverage at the same time as the victim;

(11) A qualified individual or dependent—

(i) Applies for coverage through NYSOH during the annual open enrollment period or due to a qualifying event, is assessed as potentially eligible for Medicaid or Child Health Plus and is determined ineligible for Medicaid or Child Health Plus either after open enrollment has ended or more than 60 days after the qualifying event; or

(ii) Applies for coverage at their Local Department of Social Services or Human Resources Administration during the annual open enrollment period, and is determined ineligible for Medicaid or Child Health Plus after open enrollment has ended;

(12) The qualified individual or enrollee, or his or her dependent, adequately demonstrates to NYSOH that a material error related to plan benefits, service area, or premium influenced the qualified individual's or enrollee's decision to purchase a qualified health plan; or

(13) At the option of NYSOH, the qualified individual provides satisfactory documentary evidence to verify his or her eligibility for an insurance affordability program or enrollment following termination of enrollment due to a failure to verify such status within 90 days.

(45 CFR § 155.420(d)).

Household Composition

For APTC and CSR, the household size equals the number of individuals for whom the taxpayers are allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

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)).

Generally, when determining the tax of a shareholder for the shareholder's taxable year in which the taxable year of the S corporation ends, a shareholder's pro rata share of the corporation's income, loss, or deductions shall be considered (26 USC § 1366(a)(1)). When determining the gross income of a shareholder, such gross income shall include the shareholder's pro rata share of the gross income of the corporation (26 USC § 1366(c)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you did not qualify for a special enrollment period as of February 5, 2018.

NYSOH provided an open enrollment period from November 1, 2017 through January 31, 2018.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period to enroll in, or change to another health plan offered in NYSOH. To qualify for a special enrollment period, a person must experience a triggering event.

The record reflects that on January 19, 2018, you were determined eligible for up to \$281.00 in APTC for a limited time, pending the submission of income documentation to confirm your eligibility. Further, you enrolled in a bronze-level QHP with an enrollment start date of March 1, 2018.

The record reflects that on January 22, 2018, NYSOH calculated your expected yearly income to be \$7,571.04. Based on that calculation, you were determined eligible for Medicaid pending the submission of income documentation, and your QHP enrollment was discontinued.

A special enrollment period may be available to a qualified individual or dependent who applies for coverage during the annual open enrollment period or a qualifying event and is determined potentially eligible for Medicaid during that period. However, that individual is determined ineligible for Medicaid either after the open enrollment has ended or more than 60 days after the qualifying event.

On January 23, 2018, you reapplied for financial assistance through NYSOH. You attested to annual household of \$32,000.04. Based on that attestation, on January 24, 2018, NYSOH issued an eligibility determination notice stating that you were eligible for a tax credit up to \$281.00 per month and ineligible for Medicaid. Further, the notice instructed you to select a plan, and that you would receive written confirmation from NYSOH once a plan had been selected.

The record reflects that on January 24, 2018, you were determined ineligible for Medicaid. Further, you did not attempt to enroll in a QHP until February 5, 2018. Since you were determined ineligible for Medicaid during the open enrollment period and did not attempt to enroll in a QHP until after the open enrollment period was over, you do not qualify for a special enrollment period.

Therefore, the February 6, 2018 eligibility determination notice is **AFFIRMED**.

The record reflects that you expect to file a 2018 federal income tax return, with the tax status of single and do not expect to claim any dependents on that tax return.

An individual who expects to file a federal income tax return, the household equals the taxpayers and the number of individuals for whom the taxpayer is claiming as a dependent. Therefore, you are in a one-person tax household.

You testified that you are the [REDACTED] of the [REDACTED] [REDACTED] and that is your only source of income. On January 19, 2018, you uploaded a Profit-Loss Statement, for [REDACTED] for the period of October 1, 2017 through December 31, 2017 (see Document [REDACTED]). The statement reflects that [REDACTED] had a net income of: (1) -\$257.93 for October 2017; (2) \$13,155.80 for November 2017; and (3) -\$12,093.47 for December 2017.

On April 29, 2018, you submitted your 2017 Form 1040 U.S. Individual Tax Return to NYSOH. The return reflects that you were issued \$436.00 in ordinary dividends and \$392.00 in capital gains. Based on those sources of income, your adjusted gross income was \$828.00 in 2017 (see Document [REDACTED]).

Based on the information available to NYSOH, your expected 2018 annual household should be computed to be $((\$13,155.80 - \$12,093.47 - \$257.93) \times 4 \text{ quarterly periods} + \$828.00)$, which equals \$4,045.60.

Therefore, your case is RETURNED to NYSOH to recalculate your eligibility for financial assistance based on a one-person household, for an individual residing in [REDACTED], New York, with an expected household income of \$4,045.60.

Decision

The February 6, 2018 eligibility determination is AFFIRMED.

Your case is RETURNED to NYSOH to recalculate your eligibility for financial assistance based on a one-person household, for an individual residing in [REDACTED], New York, with an expected household income of \$4,045.60, and to notify you accordingly.

Effective Date of this Decision: May 16, 2018

How this Decision Affects Your Eligibility

This decision does not change your eligibility for or enrollment in health insurance through NYSOH.

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).

Your case has been sent back to NYSOH to recalculate your eligibility based on the parameters above.

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

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).

- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The February 6, 2018 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to recalculate your eligibility for financial assistance based on a one-person household, for an individual residing in [REDACTED], New York, with an expected household income of \$4,045.60, and to notify you accordingly.

This decision does not change your eligibility for or enrollment in health insurance through NYSOH.

Your case has been returned to NYSOH to recalculate your eligibility based on the parameters above.

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 مجانًا.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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 मदद 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&etumi 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.

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).