STATE OF NEW YORK
DEPARTMENT OF HEALTH
PO Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: May 11, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000028474

[redacted]

Dear [redacted]

On April 12, 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
  PO 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(b).

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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nystateofhealth
The Official Health Plan Marketplace

STATE OF NEW YORK
DEPARTMENT OF HEALTH
PO Box 11729
Albany, NY 12211

Decision

Decision Date: May 11, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP0000000028474

[redacted]

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 you were not eligible for advance payments of the premium tax credit, cost-sharing reductions, or the Essential Plan, effective March 1, 2018?
>
> Did NYSOH properly determine that your child, [redacted] was eligible to enroll in the Essential Plan with a $20.00 monthly premium, for a limited time, effective March 1, 2018?
>
> Did NYSOH properly determine that you and your child were not eligible for Medicaid?

Procedural History

On March 19, 2017, NYSOH redetermined your household's eligibility for financial assistance with health insurance.

On March 20, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, and that your child, [redacted] (child), remained eligible for Medicaid, both effective March 1, 2017.

Also on March 20, 2017, NYSOH issued an enrollment notice confirming your child's enrollment in a Medicaid Managed Care (MMC) plan as of March 19, 2017, with such coverage having previously begun on February 1, 2017.

On March 21, 2017, NYSOH issued an additional enrollment notice confirming your selection of an MMC plan on March 21, 2017, with such coverage becoming effective May 1, 2017.

On January 2, 2018, NYSOH issued a notice stating that it was time to renew the health insurance for all members of your family for the upcoming coverage year. That notice stated that based on information from federal and state sources, NYSOH could not determine whether you and your child would qualify for financial help paying for your health coverage, and that you needed to update your account by February 15, 2018 or you and your child might lose the financial assistance you were currently receiving.

On February 5, 2018, NYSOH received an update to your application for financial assistance with health insurance. In response to this application, NYSOH prepared a preliminary eligibility determination stating that you were eligible to enroll in a qualified health plan (QHP) at full cost, and your child was eligible to enroll in the Essential Plan, for a limited time, with a $20.00 monthly premium, in each case effective March 1, 2018.

Also on February 5, 2018, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as you and your child were not found eligible for Medicaid. You were found eligible for "Aid to Continue" during the pendency of the appeal, so you were reenrolled in Medicaid for a limited time.

On February 6, 2018, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in a QHP at full cost, and your child was eligible to enroll in the Essential Plan, for a limited time, with a $20.00 monthly premium, in each case, effective March 1, 2018. The notice also stated that you and your child were not eligible for Medicaid. You were directed to provide income documentation.

Also on February 6, 2018, NYSOH issued an enrollment notice confirming your selection of an Essential Plan for your child's coverage as of February 5, 2018, with such coverage to begin effective March 1, 2018.

On April 12, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: all earnings statements issued to you and your child during month of February 2018. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On April 13, 2018, you provided to NYSOH Appeals Unit through facsimile four earnings statements issued to you by your employer, [redacted] between February 2, 2018 and February 23, 2018.

On April 19, 2018, you provided to NYSOH Appeals Unit through facsimile four earnings statements issued to your child by his employer, [redacted] also between February 2, 2018 and February 23, 2018.

Accordingly, the record was closed on April 19, 2018.

Findings of Fact

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

1) You testified that you expect to file your tax return for 2018 with a tax filing status of married filing single. You further testified that you would not claim any dependents on that tax return, though your application reflected that you would be claiming your grandchild as your sole dependent. You clarified that this was not the case since your daughter (also named [redacted] would in fact be claiming your grandchild as a dependent.

2) You testified, and your NYSOH account reflects, that your child would be filing his own tax return for 2018, and would not claim any dependents.

3) You testified that you were seeking to appeal on behalf of yourself and your child.

4) The application that was submitted on February 5, 2018 listed an annual household income of $30,030.00, consisting of the $16.50 per hour you earn from your employment with [redacted] over a typical 35-hour work week. The February 5, 2018 application also listed an annual household income of $20,280.00, consisting of $13.00 per hour your child earns from [redacted] You and your child each testified that the respective earning amounts were correct.

5) Your application states that neither you nor your child will not be taking any deductions on your respective 2018 tax return.

6) You and your child live in [redacted], New York.

7) On April 13, 2018, you provided four earnings statements issued to you by your employer, [redacted] reflecting that you received (1) $789.94 on February 2, 2018, (2) $975.56 on February 9, 2018, (3) $971.11 on February 16, 2018, and (4) $271.76 on February 23, 2018.

8) On April 19, 2018, you provided four earnings statements issued to your child by his employer, [redacted] reflecting that he received (1) $480.41 on February 2, 2018, (2) $838.04 on February 9, 2018, (3) $595.54 on February 16, 2018, and (4) $480.21 on February 23, 2018.

9) You testified that you were seeking for both you and your child to be redetermined eligible for Medicaid since the costs for the QHP and the Essential Plan made the costs related to those health plans prohibitive for you and your child.

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

Applicable Law and Regulations

Advance Payments of the Premium Tax Credit

APTC is available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 200% and 400% of the applicable poverty level (FPL) (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (*see* 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

Additionally, a tax filer who is married must file a joint return with his or her spouse to qualify for APTC (45 CFR §§ 155.305(f), 155.310(d); 26 CFR § 1.36B-2).

However, an individual will be treated as not married at the close of the taxable year if the individual

1) Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or

2) Meets all the following criteria:

    a. files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child;

    b. pays more than one half of the cost of keeping up his/her home for the tax year; and

    c. does not have his/her spouse as a member of the household during the last 6 months of the tax year

(26 USC § 7703).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

Essential Plan

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

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

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).

Legal Analysis

The first issue is whether NYSOH properly determined that you are not eligible for APTC, cost-sharing reductions (CSR) and the Essential Plan, effective March 1, 2018.

In the eligibility determination notice dated February 6, 2018, NYSOH found you ineligible for APTC because you indicated that you were married but did not plan to file a joint federal income tax return.

To qualify for APTC, a person who is married must either file taxes jointly with their spouse, or qualify as “not married” at the close of the tax year.

According to the information in your account and your testimony, you are still married to your spouse, and did not obtain a decree of divorce or of separate maintenance as of your February 5, 2018 application for financial assistance or your April 12, 2018 hearing. You testified that you were seeking financial assistance since you are physically separated, and do not receive any of your spouse’s income. There is no indication in the record that you meet any of the exceptions that allows a tax filer to be treated as “not married” at the close of a taxable year, making the tax filer eligible for APTC.

Therefore, NYSOH correctly determined in the February 6, 2018 eligibility determination notice that you were not eligible for APTC due to your tax filing status.

CSR is only available to those who meet the requirements for APTC. Since you do not qualify for APTC, NYSOH correctly found that you were ineligible for CSR.

You are in a one-person household. You clarified in your testimony that you expect to file your 2018 income tax return as married filing single and will claim no dependents on that tax return.

The Essential Plan is 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 $30,030.00 is 249.00% of the 2017 FPL, NYSOH properly found you to be not eligible for the Essential Plan.

The second issued is whether NYSOH properly determined that your child was eligible for the Essential Plan, for a limited time, effective March 1, 2018.

You credibly testified, and the record reflects, that your child's anticipated household income during 2018 was $20,280.00, consisting of $13.00 per hour he earns from [redacted]

The Essential Plan is 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 the February 5, 2018 application, the relevant FPL was $12,060.00 for a one-person household. Since an annual household income of $20,280.00 is 168.16% of the 2017 FPL, NYSOH properly found your child to be eligible for the Essential Plan.

The third issue is whether NYSOH properly determined that you and your child were not eligible 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 $30,030.00 and $20,280.00 are 249.00% and 168.16% of the 2018 FPL, respectively, NYSOH properly found you and your child to be not eligible 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.

Between April 13, 2018 and April 19, 2018, you provided several earnings statements issued to you and your child, by your respective employers, reflecting that you received $3,008.37, and your child received $2,394.20, during the month of your application, February 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 $1,397.00 per month. Since the documentation you provided shows that you and your child earned $3,008.37 and $2,394.20, respectively, in February 2018, you and your child do not qualify for Medicaid based on monthly income as of the date of your application.

Since the February 6, 2018 eligibility determination notice properly stated that, based on the information you provided, you were eligible to purchase a QHP at full cost, your child was eligible to enroll in an Essential Plan with a $20.00 monthly premium, and each of you were not eligible for Medicaid, it is correct and is AFFIRMED.

Decision

The February 6, 2018 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: May 11, 2018

How this Decision Affects Your Eligibility

You remain eligible to purchase a QHP at full cost.

Your child remains eligible to enroll in the Essential Plan with a $20.00 monthly premium.

You and your child are not eligible for Medicaid, and the limited enrollment in that coverage will end.

You case is returned to NYSOH to assist you in enrolling a plan for which you are eligible.

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)).

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
  PO Box 11729
  Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The February 6, 2017 eligibility determination notice is AFFIRMED.

You remain eligible to purchase a QHP at full cost.

Your child remains eligible to enroll in the Essential Plan with a $20.00 monthly premium.

You and your child are not eligible for Medicaid, and the limited enrollment in that coverage will end.

You case is returned to NYSOH to assist you in enrolling a plan for which you are eligible.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[redacted]

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).

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.

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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ 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 کرم1-855-355-5777 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).