



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

## Notice of Decision

Decision Date: May 8, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000032525

[REDACTED]

Dear [REDACTED],

On May 8, 2018, you appeared by telephone at an expedited hearing on your appeal of NY State of Health's May 5, 2018 plan enrollment 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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STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Decision

Decision Date: May 8, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000032525

[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 your eligibility for the Essential Plan ended as of May 1, 2018, and your enrollment ended as of April 30, 2018?

Did NY State of Health properly determine that your re-enrollment in an Essential Plan was effective June 1, 2018?

## Procedural History

On January 4, 2018, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your January 3, 2018 application stating that you were eligible to enroll in the Essential Plan for a limited time, effective February 1, 2018.

Also on January 4, 2018, NYSOH issued a plan enrollment notice confirming your enrollment in an Essential Plan.

Both notices directed you to submit proof of household income by March 15, 2018, to confirm your eligibility for financial assistance.

As of March 15, 2018, NYSOH had not received your proof of income.

On March 21, 2018, NYSOH systematically redetermined your eligibility for financial assistance.

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).

On March 22, 2018, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$134.00 per month in advance payments of the premium tax credit (APTC), effective May 1, 2018, and were no longer eligible for the Essential Plan. The notice informed you that you needed to pick a plan and provided instructions on how to do so.

Also on March 22, 2018, NYSOH issued a disenrollment notice stating that your enrollment in the Essential Plan would end as of April 30, 2018, because you were no longer eligible to be enrolled in the Essential Plan. The notice informed you that you needed to log in to your account to pick a plan as coverage would not start until you did so.

On April 3, 2018, NYSOH issued three notices in the following order:

- 1) A plan enrollment notice confirming your enrollment in an Essential Plan, effective May 1, 2018;
- 2) An eligibility determination notice, based on your income documentation and April 3, 2018 updated application, stating that you were eligible to receive up to \$399.00 per month in APTC, effective May 1, 2018, and you needed to pick a plan; and,
- 3) A disenrollment notice stating that your enrollment with the Essential Plan would end on May 1, 2018, because you were no longer eligible to be enrolled in the Essential Plan, and you needed to pick a plan.

On April 30, 2018, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential insofar as it did not begin as of May 1, 2018.

On May 8, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

## **Findings of Fact**

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

- 1) According to your NYSOH and your testimony, you have a tax filing status of single and do not expect to claim any dependents on your federal tax return.
- 2) You testified that you received the January 4, 2018 notices and were aware that you needed to provide proof of income, but missed the deadline.

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- 3) You submitted an updated application to NYSOH for financial assistance on April 2, 2018. Your annual household income is listed as \$25,035.66, which was calculated by NYSOH based on your March 13, 2018 paystub showing gross earnings of \$902.17 and your March 28, 2018 paystub showing gross earnings of \$1,023.65 ( $\$1,925.82 \times 4 \text{ weeks} = \$481.45 \text{ per week} \times 52 \text{ weeks}$ ).
- 4) You testified that the income amount used by NYSOH to determine your eligibility was not correct in that your student loan interest and tuition and fee deductions were not included.
- 5) On April 2, 2018, you uploaded two recent biweekly paystubs as proof of income, both of which show that you have “other deductions” taken out besides tax deductions.
- 6) You testified that these deductions relate in part to student loan interest and tuition that you have deducted directly from your pay to pay to the lender.
- 7) You next submitted an updated application to NYSOH for financial assistance on May 4, 2018 and, with the assistance of a NYSOH representative, listed your annual household income as \$25,035.66 less deductions of \$3,423.16 in student loan interest, for an annual household income of \$21,612.50.
- 8) You also selected an Essential Plan on May 4, 2018, with an enrollment start date of June 1, 2018.
- 9) You are seeking to have your health insurance coverage begin as of May 1, 2018, so that you can receive necessary and urgent medical services.
- 10) According to your NYSOH account, you reside in [REDACTED].

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

## **Applicable Law and Regulations**

### Verification of Eligibility for the Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their

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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).

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

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

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

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

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any updates in eligibility to the Essential Plan effective the first day of the following month for changes received by NYSOH from the first to the fifteenth of any month (45 CFR § 155.420(b)(1)(i); see *also* 42 CFR § 600.320(c)). For updates received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR § 155.420(b)(1)(ii); see *also* 42 CFR § 600.320(c)).

### 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.

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). 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)).

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, tuition and fees for a dependent’s higher education paid by the tax payer to a qualified educational institution can be deducted from adjusted gross income in an amount up to \$4,000.00, provided the tax payer’s yearly income does not exceed \$80,000.00 for a single individual or \$160,000.00 if married filing jointly. This deduction was renewed by Congress in December 2014 and made retroactive to the 2014 tax year and extended to December 31, 2017 (26 USC § 222(e); see IRS Publication 970).

### Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York’s Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see *also* 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last

day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your eligibility for the Essential Plan ended effective May 1, 2018, and your enrollment ended as of April 30, 2018.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her household's projected annual income. For individuals seeking enrollment in the Essential Plan, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determination and plan enrollment notices issued on January 4, 2018, you were advised that you were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income before March 15, 2018. You testified that you received these notices and were aware that you needed to provide proof of income, but missed the deadline. Therefore, it is reasonable to conclude that NYSOH gave you proper notice of the inconsistency in your account and afforded you the correct amount of time to provide proof of income.

Since NYSOH did not receive your proof of income by the deadline, NYSOH redetermined your eligibility based on information obtained from federal and state data sources and determined you to be eligible for APTC, effective May 1, 2018 and no longer eligible for the Essential Plan, effective June 30, 2018.

Therefore, the March 22, 2018 eligibility determination and disenrollment notices were correct when made and are AFFIRMED.

The record further reflects that you first uploaded proof of income on April 2, 2018. Based on that proof, NYSOH recalculated your annual household income to be \$25,035.16 using your March 13, 2018 paystub showing gross earnings of \$902.17 and your March 28, 2018 paystub showing gross earnings of \$1,023.65 (\$1,925.82 ÷ 4 weeks = \$481.45 per week x 52 weeks). You were redetermined eligible for an increase amount of APTC of up to \$399.00 per month, effective May 1, 2018.



However, you credibly testified that the income amount as recalculated by NYSOH was not correct in that it did not take in to account that you take deductions for student loan interest and tuition and fees. Your March 12, 2018 and March 28, 2018 paystubs confirm that you have “other deductions” that in part are taken out to pay student loan interest and tuition.

According to the IRS, a student loan interest deduction of up to \$2,500.00 can be taken annually in determining adjusted gross income. However, as of the date of this Decision, Congress has not extended the deduction for tuition and fees. Therefore, your household income as of April 2, 2018, should have been calculated to be \$22,535.16 (\$25,035.16 - \$2,500.00).

You testified that when you became aware that you had no coverage in May 2018, you contacted NYSOH. On May 4, 2018, with the assistance of a NYSOH representative, your income was recalculated to be \$21,612.50 (\$25,035.16 - \$3,423.16 in student loan interest). As a result, you were found eligible for the Essential Plan as of June 1, 2018. Also on May 4, 2018, you selected and enrolled into an Essential Plan, with a June 1, 2018 enrollment start date.

The date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

Ordinarily, the enrollment start date of your Essential Plan would begin on the first day of the month following May 2018; that is June 1, 2018. However, your eligibility as of April 2, 2018, was based on incorrect income. Had your eligibility been properly determined based on the income as recalculated herein, you would have been able to select the appropriate health plan before April 16, 2018, for a May 1, 2018 enrollment start date.

Therefore, the April 2, 2018 eligibility determination notice was based in incorrect income and is not supported by the record such that it is RESCINDED.

Based on the foregoing, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance as of April 2, 2018, using a one-person household with an income of \$22,535.16, for an individual residing in [REDACTED], and to allow you to enroll in an appropriate health plan based on your eligibility as redetermined, with a May 1, 2018 enrollment start date.

The April 2, 2018 disenrollment notice is rendered MOOT by this Decision.

## **Decision**

The March 22, 2018 eligibility determination and disenrollment notices are **AFFIRMED**.

The April 2, 2018 eligibility determination notice was based in incorrect income and is not supported by the record such that it is **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine your eligibility for financial assistance as of April 2, 2018, using a one-person household with an income of \$22,535.16, for an individual residing in [REDACTED], and to allow you to enroll in an appropriate health plan based on your eligibility as redetermined, with a May 1, 2018 enrollment start date.

The April 2, 2018 disenrollment notice is rendered **MOOT** by this Decision.

**Effective Date of this Decision:** May 8, 2018

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

This decision does not change your eligibility for or disenrollment from the Essential Plan. You were properly determined to be ineligible for the Essential Plan as of May 1, 2018, and properly disenrolled as of April 30, 2018

Your case is being sent back to NYSOH to redetermine your eligibility as of April 2, 2018, based on the parameters noted above, and to allow you to select a health plan with a May 1, 2018 enrollment start date.

If applicable, you will be responsible to pay the monthly premium directly to the health plan for coverage to start as of May 1, 2018.

## **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

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appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

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

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

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

### **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The March 22, 2018 eligibility determination and disenrollment notices are **AFFIRMED**.

The April 2, 2018 eligibility determination notice was based in incorrect income and is not supported by the record such that it is **RESCINDED**.

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Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance as of April 2, 2018, using a one-person household with an income of \$22,535.16, for an individual residing in [REDACTED], and to allow you to enroll in an appropriate health plan based on your eligibility as redetermined, with a May 1, 2018 enrollment start date.

The April 2, 2018 disenrollment notice is rendered MOOT by this Decision.

This decision does not change your eligibility for or disenrollment from the Essential Plan. You were properly determined to be ineligible for the Essential Plan as of May 1, 2018, and properly disenrolled as of April 30, 2018

Your case is being sent back to NYSOH to redetermine your eligibility as of April 2, 2018, based on the parameters noted above, and to allow you to select a health plan with a May 1, 2018 enrollment start date.

If applicable, you will be responsible to pay the monthly premium directly to the health plan for coverage to start as of May 1, 2018.

## **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।

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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&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.

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