



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

Notice of Decision

Decision Date: March 28, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP0000000026336

[REDACTED]

Dear [REDACTED],

On March 1, 2018, [REDACTED] appeared by telephone at a hearing on your appeal of NY State of Health's September 28, 2017 and November 30, 2017 eligibility determination and disenrollment notices.

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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DEPARTMENT OF HEALTH
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Decision

Decision Date: March 28, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026336

[REDACTED]

Issue

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

Did NY State of Health properly determine that your spouse's enrollment in his Essential Plan ended effective September 30, 2017, and again on December 1, 2017?

Procedural History

According to your spouse's NY State of Health (NYSOH) account, your spouse was found eligible for and enrolled in the Essential Plan with a \$20.00 monthly premium as of March 1, 2017.

On September 28, 2017, NYSOH issued an eligibility determination notice stating that your spouse did not qualify for health coverage through NYSOH because notices sent to you by NYSOH were returned to NYSOH as undeliverable. Your spouse's eligibility ended October 1, 2017.

Also on September 28, 2017, a disenrollment notice was issued stating that your spouse's coverage in his Essential Plan would end on September 30, 2017. This was because he was no longer eligible to remain enrolled in health insurance through NYSOH.

On November 14, 2017, NYSOH issued an eligibility determination notice, based on your spouse's November 13, 2017 updated application, stating that your spouse was eligible for the Essential Plan, effective December 1, 2017.

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Also on November 14, 2017, a plan enrollment notice was issued confirming your spouse's selection of an Essential Plan and the effective date of that plan was December 1, 2017.

On November 30, 2017, NYSOH issued an eligibility determination notice stating that your spouse does not qualify for health coverage through NYSOH. This was because notices sent to you by NYSOH were returned to NYSOH as undeliverable. Your spouse's eligibility ended December 1, 2017.

Also on November 30, 2017, a disenrollment notice was issued stating that your spouse's coverage in his Essential Plan would end on December 1, 2017, because he was no longer eligible to remain enrolled in health insurance through NYSOH.

On December 13, 2017, NYSOH issued an eligibility determination notice, based on your spouse's December 12, 2017 updated application, stating that your spouse was eligible to share in an advance payment of the premium tax credit of up to \$631.00, effective January 1, 2018.

Also on December 13, 2017, a plan enrollment notice was issued confirming your spouse's selection of a bronze-level qualified health plan, with an effective start date of January 1, 2018.

On December 16, 2017, your spouse submitted a written appeal request to NYSOH's Account Review Unit and appealed the September 28, 2017 and November 30, 2017 disenrollment notices insofar as his enrollment in his Essential Plan ended on September 30, 2017 and December 1, 2017, respectively, resulting in a lapse in coverage for the months of October 2017 through December 2017.

On March 1, 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 account, notices have been issued to your mailing address since November 24, 2015, and were not returned as undeliverable until September 26, 2017.
- 2) According to your NYSOH account, your spouse was found eligible for and enrolled in the Essential Plan with a \$20.00 monthly premium as of

March 1, 2017. On September 16, 2017, NYSOH issued a notice that was returned as undeliverable on September 26, 2018.

- 3) According to your NYSOH account, the mailing envelope of the September 16, 2017 notice that was returned states, "Return to Sender: Attempted – Not Known, Unable to Forward."
- 4) Following NYSOH's receipt of the returned mail, your spouse was disenrolled from his Essential Plan, effective September 30, 2017.
- 5) Your spouse testified that he realized that he was disenrolled from his Essential Plan three months later when he received medical bills in the mail.
- 6) According to a written appeal, dated December 16, 2017, your spouse stated he "was still paying my premiums and MVP was cashing my checks" (see Document [REDACTED]).
- 7) According to your NYSOH account, on November 13, 2017, NYSOH received your spouse's updated application for health insurance. He selected an Essential Plan that day and his enrollment was effective on December 1, 2017.
- 8) According to the Mailing Address History Tab in your NYSOH account, you and your spouse's mailing address was updated on November 13, 2017, and was confirmed as valid after your apartment number, [REDACTED] was removed from your address.
- 9) According to your NYSOH account, on November 28, 2017, the November 14, 2017 eligibility determination and plan enrollment notices regarding your December 1, 2017 eligibility and enrollment were returned as undeliverable.
- 10) According to your NYSOH account, your spouse was disenrolled from his Essential Plan, effective December 1, 2017, also because notices sent to you by NYSOH were returned as undeliverable.
- 11) The Mailing Address History Tab also shows that, on November 29, 2017, NYSOH systematically added your apartment number back to you and your spouse's mailing address.
- 12) On December 11, 2017, a NYSOH representative updated your mailing address by again removing your apartment number in your address. No other notices have been returned as undeliverable to the address on file.

- 13) Your spouse testified that, although he does live in [REDACTED] he is not sure why his notices were returned and he has not had any issue with receiving any other notices via regular mail.
- 14) Your spouse testified that he was told by a NYSOH representative that his coverage would not become effective until January 1, 2018, because there was an issue with his mailing address.
- 15) Your spouse testified that he wants his Essential Plan reinstated for October 2017 through December 2017, because he has medical bills from those months and did not know he was terminated from his coverage.

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

Applicable Law and Regulations

State Residency Requirement

To be eligible for enrollment in an Essential Plan through the New York State of Health, an applicant must be a resident of New York State (NY Public Health Law § 2510(6)).

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/basic-health-program.html>).

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 issue under review is whether NYSOH properly determined that your spouse's enrollment in his Essential Plan ended effective September 30, 2017, and again on December 1, 2017.

Your spouse was originally found eligible for an Essential Plan and enrolled effective March 1, 2017.

According to your NYSOH account, on September 16, 2017, NYSOH issued a notice that was returned as undeliverable on September 26, 2017. A review of the record reflects that, at the time, this was the only notice returned as undeliverable despite several other notices previously sent to the exact same address.

Your spouse was subsequently disenrolled under the returned mail rule on the basis that he did not meet the state residency requirement. As such, on September 28, 2017, NYSOH issued eligibility determination and disenrollment notices, stating respectively that your spouse was no longer eligible to enroll in the Essential Plan and his coverage in the Essential Plan would end effective September 30, 2017.

However, the credible evidence of record reflects that the September 16, 2017 notice was the only notice returned as undeliverable to NYSOH despite other notices being sent to the same mailing address since November 2015. Also, the envelope of the returned letter states "Return to Sender: Attempted – Not Known, Unable to Forward" indicating that the address on the envelope was incorrect.

Therefore, it is reasonable to conclude that this notice was returned as undeliverable through no fault of your own or that of your spouse and was the result of an error of NYSOH or the United State Postal Service. It is also reasonable to conclude that, as a result, your spouse's initial disenrollment from his Essential Plan as of September 27, 2017, was in error.

The record reflects your spouse was also disenrolled from his Essential Plan on December 1, 2017, because the November 14, 2017 eligibility determination and plan enrollment notices sent to your mailing address by NYSOH were returned as undeliverable. This was again based on the returned mail rule, which indicates the state residency requirement is no longer met.

In this instance, the record reflects that you or your spouse updated your mailing address on November 13, 2017, and confirmed its validity when your spouse re-applied for health insurance and re-enrolled in the Essential Plan that day. However, the corresponding eligibility determination and plan enrollment notices that were issued on November 14, 2017, were returned as undeliverable on November 28, 2017.

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).

According to your spouse's credible testimony, he was unaware of being disenrolled a second time because he did not receive the November 29, 2017 disenrollment notice until on or about December 11, 2017. He further testified that he only learned that he had no coverage when he received bills directly for medical treatment and care received from October 2017 through December 2017. According to his written appeal, he continued to pay the monthly premiums, which the health plan continued to cash. Therefore, it is reasonable to conclude that your spouse believed he had health insurance coverage those months.

Finally, it is reasonable to conclude that these notices were returned as undeliverable through no fault of your own or that of your spouse and was the result of error by NYSOH and/or the United State Postal Service. It is also reasonable to conclude that your spouse's subsequent disenrollment from his Essential Plan as of December 1, 2017, which was based on the November 14, 2017 returned notices, was also in error.

Therefore, the September 28, 2017 and November 30, 2017 eligibility determination and disenrollment notices were in error and must be RESCINDED.

Your case is RETURNED to NYSOH to reinstate your spouse in his Essential Plan for the months of October 2017 through December 2017, and to notify you accordingly.

Decision

The September 28, 2017 and November 30, 2017 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your spouse in his Essential Plan for the months of October 2017 through December 2017, and to notify you accordingly.

Effective Date of this Decision: March 28, 2018

How this Decision Affects Your Eligibility

Your case is sent back to NYSOH to reinstate your spouse in his Essential Plan for the months of October 2017 through December 2017.

NYSOH will notify you once this is completed.

Your spouse will be responsible for premiums due for those months in which his coverage is reinstated.

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).

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
- By mail at:

NY State of Health Appeals
P.O. Box 11729

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The September 28, 2017 and November 30, 2017 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your spouse in his Essential Plan for the months of October 2017 through December 2017, and to notify you accordingly.

Your spouse will be responsible for premiums due for those months in which his coverage is reinstated.

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 مجاناً.

বাংলা (Bengali)

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).

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।

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.

שׂוֹדֵיט (Yiddish)

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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).