



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

Notice of Decision

Decision Date: March 27, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027625

[REDACTED]

Dear [REDACTED],

On March 16, 2018, you appeared by telephone at a hearing of your appeal of NY State of Health's October 18, 2017 eligibility determination and October 19, 2017 disenrollment notices, and their alleged failure to enroll your spouse and mother in an Essential Plan as of November 1, 2017.

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).

This page intentionally left blank.



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

Decision

Decision Date: March 27, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027625

[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 your spouse and mother were no longer eligible to enroll in the Essential Plan and properly end their coverage effective October 31, 2017?

Did NYSOH fail to enroll your spouse and mother in an Essential Plan as of November 1, 2017?

Procedural History

On July 15, 2017, NYSOH issued an eligibility determination notice stating, in relevant parts, that your spouse and mother were eligible to enroll in the Essential Plan for a limited time, effective August 1, 2017. The notice directed you to provide additional proof of your spouse and mother's immigration status by October 12, 2017, to confirm their eligibility.

On July 15, 2017, NYSOH issued an enrollment notice confirming, in relevant parts, that as of July 14, 2016, your spouse and mother were enrolled in an Essential Plan with an enrollment start date of July 1, 2017. The notice directed you in part to provide additional proof of your spouse and your mother's immigration status by October 12, 2017, to confirm their eligibility.

On October 17, 2017, your NYSOH account was systemically updated.

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 October 18, 2017, NYSOH issued an eligibility determination notice stating, in relevant parts, that your spouse and mother were no longer eligible for health insurance through NYSOH as of December 1, 2017, because you did not provide the immigration status documentation to confirm their eligibility.

On October 19, 2017, NYSOH issued a disenrollment notice stating, in relevant parts, that your spouse and mother's Essential Plan coverage would end October 31, 2017, because they were no longer eligible to enroll in health insurance.

On November 3, 2017, your NYSOH account was updated.

On November 4, 2017, NYSOH issued an eligibility determination notice stating, in relevant parts, that your spouse and mother were eligible to enroll in the Essential Plan for a limited time, effective November 1, 2017. The notice directed you to provide additional proof of your spouse and mother's immigration status by February 1, 2018, to confirm their eligibility.

On December 7, 2017, NYSOH issued an enrollment notice confirming, in relevant parts, that as of December 6, 2017, your spouse and mother were enrolled in an Essential Plan with an enrollment start date of December 1, 2017. The notice directed you to provide additional proof of your spouse and mother's immigration status by February 1, 2018, to confirm their eligibility.

On January 22, 2018, you spoke with NYSOH's Account Review Unit and requested an appeal relative to the discontinuance of your spouse and mother's Essential Plan coverage.

On March 16, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken and the record was fully developed during the hearing. The record was then closed at the end of the hearing.

Findings of Fact

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

- 1) You testified that you were appealing your spouse and mother not being enrolled in an Essential Plan during the month of November 2017.
- 2) According to your NYSOH account, your spouse and mother are "Non-immigrant Visa Holder[s]."
- 3) According to your NYSOH account, your spouse and mother were enrolled in an Essential Plan as of July 1, 2017.

- 4) According to your NYSOH account, you receive notices from NYSOH by the United States Postal Service (USPS).
- 5) According to your NYSOH account, none of the notices issued by NYSOH have been returned as undeliverable.
- 6) You testified you found out that your spouse and mother's health insurance coverage ended when you received a disenrollment notice from NYSOH.
- 7) On January 5, 2018, your spouse and mother's Employment Authorization Cards were uploaded to your account (see Documents [REDACTED]; [REDACTED]). The cards reflect that your spouse and mother's category codes are C08 with card expiration dates of [REDACTED] and [REDACTED], respectively.
- 8) You testified that your spouse and mother's I-94 Arrival/Department Records were sent to NYSOH before January 5, 2018.
- 9) You testified that you did not know who sent the I-94 documentation to NYSOH, when it was sent, and the mode by which it was sent to NYSOH.
- 10) According to your NYSOH account, besides your spouse and mother's Employment Authorization Cards, no other immigration status documentation was provided to NYSOH.
- 11) According to your NYSOH account, on December 6, 2017, your spouse and mother were reenrolled in an Essential Plan.
- 12) You testified that you want your spouse and mother to be enrolled in an Essential Plan during the month of November 2017 to cover any medical expenses that were incurred in that month.

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

Applicable Law and Regulations

Essential Plan – Citizenship or Immigration Status

To be eligible to enroll in the Essential Plan, an applicant must be a citizen or national of the United States or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1); 45 CFR § 155.20; 42 CFR §600.305; 42 CFR § 600.5).

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).

The federal regulations state that the following non-citizens are lawfully present:

- (1) A qualified alien as defined in section 431 of the Personal Responsibility and Work Opportunity Act (PRWORA) (8 U.S.C. 1641);
- (2) An alien in nonimmigrant status who has not violated the terms of the status under which he or she was admitted or to which he or she has changed after admission;
- (3) An alien who has been paroled into the United States pursuant to section 212(d)(5) of the Immigration and Nationality Act (INA) (8 U.S.C. 1182(d)(5)) for less than 1 year, except for an alien paroled for prosecution, for deferred inspection or pending removal proceedings;
- (4) An alien who belongs to one of the following classes:
 - (i) Aliens currently in temporary resident status pursuant to section 210 or 245A of the INA (8 U.S.C. 1160 or 1255a, respectively);
 - (ii) Aliens currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 U.S.C. 1254a), and pending applicants for TPS who have been granted employment authorization;
 - (iii) Aliens who have been granted employment authorization under 8 CFR 274a.12(c)(9), (10), (16), (18), (20), (22), or (24);
 - (iv) Family Unity beneficiaries pursuant to section 301 of Public Law 101-649 as amended;
 - (v) Aliens currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President;
 - (vi) Aliens currently in deferred action status;
 - (vii) Aliens whose visa petitions have been approved and who have a pending application for adjustment of status;
- (5) A pending applicant for asylum under section 208(a) of the INA (8 U.S.C. 1158) or for withholding of removal under section 241(b)(3) of the INA (8 U.S.C. 1231) or under the Convention Against Torture who has been granted employment authorization, and such an applicant under the age of 14 who has had an application pending for at least 180 days;
- (6) An alien who has been granted withholding of removal under the Convention Against Torture; or

(7) A child who has a pending application for Special Immigrant Juvenile status as described in section 101(a)(27)(J) of the INA (8 U.S.C. 1101(a)(27)(J));

(8) *Exception.* An individual with deferred action under the Department of Homeland Security's deferred action for childhood arrivals process, as described in the Secretary of Homeland Security's June 15, 2012, memorandum, shall not be considered to be lawfully present with respect to any of the above categories in paragraphs (1) through (7) of this definition.

(45 CFR § 152.2).

Verification of Eligibility – Citizenship or Immigration Status

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/basic-health-program.html>; 42 CFR § 600.345(a)(2)).

For individuals who attest to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant (42 CFR § 600.345, 45 CFR § 155.315(c)(3), (f)(2)(i)).

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 first issue under review is whether NYSOH properly determined that your spouse and mother were no longer eligible to enroll in the Essential Plan and ended their coverage as of October 31, 2017.

On July 10, 2017, an application for financial assistance was submitted. That application reflects you attested that your spouse and mother were “Non-immigrant Visa Holder[s].”

Based on that application, on July 15, 2017, NYSOH issued notices stating your spouse and mother were eligible to enroll in the Essential Plan for a limited time, and you were instructed to provide additional proof of their immigration status by October 12, 2017.

To be eligible to enroll in the Essential Plan, an applicant must be a citizen or national of the United States or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought

If NYSOH cannot verify an individual’s citizenship or immigration status, it must provide the individual with notice of the inconsistency. NYSOH must also provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency.

The record reflects that you opted to receive notices by the USPS, and there is no evidence in the record that any of the notices issued by NYSOH were returned as undeliverable. Therefore, NYSOH properly notified you of the need to submit additional documentation to confirm your spouse and mother’s eligibility.

The record further reflects that on January 5, 2018, your spouse and mother’s Employment Authorization Cards were uploaded to your NYSOH account (see Documents [REDACTED]). The cards reflect that your spouse and mother’s category codes are C08 with card expiration dates of [REDACTED] and [REDACTED], respectively.

You testified that your spouse and mother’s I-94 Arrival/Department Records were sent to NYSOH before January 5, 2018; however, you were unable to provide any additional information on when or who sent the documentation to NYSOH, or by what means. Further, as of the date of your hearing, your NYSOH account reflected that no other immigration documentation had been provided for your spouse or mother.

Based on the credible record, the necessary immigration status documentation was not provided to NYSOH by October 12, 2017. Therefore, NYSOH properly determined your spouse and mother ineligible for health insurance coverage 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).

ended their Essential Plan as of October 31, 2017, and the October 18, 2017 eligibility determination notice to that effect is AFFIRMED.

Likewise, the October 19, 2017 disenrollment notice is AFFIRMED.

The second issue under review is whether NYSOH failed to enroll your spouse and mother in an Essential Plan during the month of November 2017.

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.

The record reflects that your spouse and mother were reenrolled in an Essential Plan on December 6, 2017. For the Essential Plan to be effective November 1, 2017, the plan selection needed to occur on or before October 15, 2017. Since the plan selection did not occur until December 6, 2017, NYSOH did not fail to enroll your spouse and mother in an Essential Plan as of November 1, 2017.

Decision

The October 18, 2017 eligibility determination notice is AFFIRMED.

The October 19, 2017 disenrollment notice is AFFIRMED.

NYSOH did not fail to enroll your spouse and mother in an Essential Plan as of November 1, 2017.

Effective Date of this Decision: March 27, 2018

How this Decision Affects Your Eligibility

NYSOH properly ended your spouse and mother's Essential Plan coverage as of October 31, 2017.

Your spouse and mother were not eligible to be enrolled in an Essential Plan during the month of November 2017.

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
Albany, NY 12211

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 fax: 1-855-900-5557

Summary

The October 18, 2017 eligibility determination notice is AFFIRMED.

The October 19, 2017 disenrollment notice is AFFIRMED.

NYSOH did not fail to enroll your spouse and mother in an Essential Plan as of November 1, 2017.

NYSOH properly ended your spouse and mother's Essential Plan coverage as of October 31, 2017.

Your spouse and mother were not eligible to be enrolled in an Essential Plan during the month of November 2017.

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)

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 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 okyer& 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).