

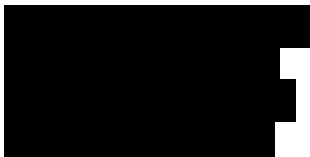


STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: February 28, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010644



Dear [REDACTED]

On January 4, 2017, your spouse appeared by telephone at a hearing on your appeal of NY State of Health's March 7, 2016 eligibility redetermination 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 NY State of Health Account ID at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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## Decision

Decision Date: February 28, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010644



## Issue

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

Did NY State of Health (NYSOH) properly determine that your spouse's eligibility for the Essential Plan ended effective March 31, 2016?

## Procedural History

On December 6, 2015, NYSOH issued a notice of eligibility determination, based on your December 2, 2015 updated application, stating that your spouse was eligible to enroll in the Essential Plan for a limited time, effective January 1, 2016. The notice directed you to provide documentation confirming your household income and your spouse's citizenship status before March 1, 2016.

On December 6, 2015, NYSOH issued a notice confirming your spouse's enrollment in an Essential Plan, effective January 1, 2016.

On February 29, 2016, you and your spouse uploaded proof of your household income which included your 2015 1099-MISC form, your 2015 1099-B tax reporting statement, and your and your spouse's statement of income for the prior three months

Also on February 29, 2016, your spouse uploaded a copy of his U.S. Passport (see Document [REDACTED]).

On March 7, 2016, NYSOH issued an eligibility determination notice stating that your spouse was not eligible for Medicaid, Child Health Plus, Essential Plan, or to receive tax credits or cost sharing reductions to help pay for the cost of insurance. That notice also stated that your spouse also could not enroll in a qualified health plan at full cost through NY State of Health because you did not provide proof of his citizenship status. Your spouse's eligibility ended effective March 31, 2016.

Also on March 7, 2016, NYSOH issued a disenrollment notice stating that your spouse was terminated from his Essential Plan, effective March 31, 2016.

Also on March 7, 2016, NYSOH issued an enrollment notice confirming that you were enrolled in an Essential Plan, effective January 1, 2016.

On March 10, 2016, NYSOH issued a notice stating that, although you have submitted documentation to resolve the inconsistency of your household's income, that documentation was insufficient. The notice further stated that you needed to supply additional proof of your household income.

On March 21, 2016, you and your spouse uploaded letters of attestation stating respectively that you each had no expenses from your businesses (see Documents [REDACTED] and [REDACTED]).

On March 22, 2016, NYSOH issued an eligibility redetermination notice, based on your March 21, 2016 updated application, stating that your spouse was eligible to enroll in the Essential Plan for a limited time, effective May 1, 2016. The notice directed your spouse to provide documentation confirming his income and citizenship status before June 19, 2016.

Also on March 22, 2016, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective January 1, 2016. That notice also stated that your spouse's health coverage would not begin until he picked a plan.

On March 28, 2016, NYSOH validated your spouse's U.S. Passport and invalidated your and your spouse's proofs of income and your spouse's letter of attestation of no business expenses.

On April 29, 2016, NYSOH issued an enrollment notice confirming your spouse's April 28, 2016 selection of and enrollment in an Essential Plan with an effective start date of June 1, 2016.

On June 30, 2016, you spoke to NYSOH's Account Review Unit and appealed the enrollment start date of your spouse's Essential Plan enrollment insofar as it began your spouse's coverage on June 1, 2016 and not April 1, 2016.

On January 4, 2017, 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 and your spouse's testimony, you receive all of your notices from NYSOH via electronic mail.
- 2) Your spouse testified that you did receive the December 6, 2015 notice stating that his eligibility was only conditional and that you needed to provide documentation of your household's income and his citizenship status before March 1, 2016.
- 3) Your spouse testified that you sent documentation numerous times and were never properly instructed as to what other documents needed to be sent.
- 4) According to your NYSOH account, on February 29, 2016, your spouse uploaded a copy of his U.S. Passport, which was validated on March 28, 2016 (see Document [REDACTED]).
- 5) Your NYSOH account indicates that on March 7, 2016, your spouse's eligibility was systematically run and he was found no longer eligible for the Essential Plan as of March 31, 2016 and was disenrolled as of March 31, 2016. The basis for his ineligibility was that you had not provided proof of his citizenship status.
- 6) On March 21, 2016, you updated your and your spouse's application for financial assistance and submitted additional proof of household income.
- 7) On March 22, 2016, NYSOH issued an eligibility redetermination notice, based on your March 21, 2016 updated application, stating that your spouse was eligible to enroll in the Essential Plan for a limited time.
- 8) Your spouse testified that he is seeking his enrollment in the Essential Plan to begin as of April 1, 2016 because he has medical bills for April 2016.

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

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

To enroll in a qualified health plan through NYSOH, 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)). Additionally, 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 in order 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)).

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence and that the income information the applicant is attesting to is accurate (45 CFR § 155.315(a), (c); 45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A); 45 CFR § 155.320(c)(3)(iii), (iv)).

If an applicant attests to citizenship, status as a national, lawful presence, or income and NYSOH is unable to verify such attestation, NY State of Health must then provide the applicant with 90 days to provide satisfactory documentary

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evidence. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5-day period (45 CFR § 155.315(c)(3), (f)(2)(i)). If NYSOH remains unable to verify the citizenship and income attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(2), (5), (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)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your spouse's eligibility for the Essential Plan ended effective March 31, 2016.

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 and citizenship status. For individuals seeking enrollment in the Essential Plan, NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that their citizenship status is satisfactory and their income information is accurate.

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 issued on December 6, 2015, you were advised that your spouse was eligible for the Essential Plan for a limited time, and that you needed to confirm his income and citizenship status with documentary proof before March 1, 2016.

Your spouse testified that you did receive the notice from NYSOH telling you that you needed to provide proof of income and citizenship status to confirm your spouse's eligibility. The record reflects that, on February 29, 2016, you submitted proof of your household income and proof of your spouse's citizenship status.

However, on March 7, 2016 your spouse's eligibility was systematically run and he was found no longer eligible for the Essential Plan as of March 31, 2016 and

was terminated as of March 31, 2016. The basis for his ineligibility was that you had not provided proof of his citizenship status.

Since your spouse did supply proof of his citizenship status in a timely manner, namely, his current U.S. Passport, his eligibility for the Essential Plan should not have been terminated as of March 31, 2016 on that basis.

Accordingly, the March 7, 2016 eligibility redetermination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to REINSTATE your spouse's coverage in his Essential Plan effective April 1, 2016.

## **Decision**

The March 7, 2016 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to REINSTATE your spouse's coverage in his Essential Plan effective April 1, 2016, and to notify you accordingly.

**Effective Date of this Decision:** February 28, 2017

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

NYSOH erred in terminating your spouse's Essential Plan effective March 31, 2016.

Your case is being sent back to NYSOH to reinstate your spouse's coverage in his Essential Plan effective April 1, 2016. NYSOH will notify you once this has been achieved.

You/your spouse will be responsible for any monthly premiums owed for the months of reinstatement.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

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).



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 U.S. Department of Health and Human Services. 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 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 7, 2016 eligibility determination and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to **REINSTATE** your spouse's coverage in his Essential Plan effective April 1, 2016, and to notify you accordingly.

NYSOH erred in terminating your spouse's Essential Plan effective March 31, 2016.

Your case is being sent back to NYSOH to reinstate your spouse's coverage in his Essential Plan effective April 1, 2016. NYSOH will notify you once this has been achieved.

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).

You/your spouse will be responsible for any monthly premiums owed for the months of reinstatement.

### **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**

