



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

## Notice of Decision

Decision Date: February 1, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012408

[REDACTED]

Dear [REDACTED],

On January 24, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 4, 2016 eligibility determination notice, the June 4, 2016 disenrollment notice, the September 22, 2016 eligibility determination notice and the September 28, 2016 enrollment confirmation 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 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 1, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012408

[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 eligibility for the Essential Plan ended effective June 30, 2016?

Did NYSOH provide a timely determination of your Essential Plan eligibility as of November 1, 2016?

Did NYSOH properly determine that your eligibility for and enrollment in the Essential Plan was effective November 1, 2016?

## Procedural History

On March 1, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective April 1, 2016. The notice further directed you to provide documentation confirming your citizenship status before May 29, 2016.

Also on March 1, 2016, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective April 1, 2016.

On March 3, 2016, documentation was uploaded to your NYSOH account.

On March 11, 2016, NYSOH issued a notice advising you that the documentation you submitted was insufficient to resolve the inconsistency in your account and additional proof of citizenship documentation was required.

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On June 4, 2016, NYSOH issued an eligibility determination notice stating that you were not eligible for Medicaid, Child Health Plus, the Essential Plan, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You also could not enroll in a qualified health plan at full cost because you had not confirmed your citizenship status within the required timeframe. Your eligibility for coverage ended effective June 30, 2016.

On June 4, 2016, NYSOH issued a disenrollment notice stating that your enrollment in the Essential Plan would end as of June 30, 2016, because you were no longer eligible to remain in your plan.

On June 23, 2016, you updated your application for financial assistance.

On June 28, 2016, NYSOH issued a notice stating more information was needed to make a determination. The notice asked you to submit income documentation for your household by July 8, 2016 and documentation of your citizenship status by September 21, 2016.

On July 22, 2016, documentation was uploaded to your NYSOH account.

On July 29, 2016, NYSOH redetermined your eligibility for financial assistance.

On July 30, 2016, NYSOH issued a notice stating more information was needed to make a determination. The notice asked you to submit income documentation for your household by July 23, 2016.

Also on July 30, 2016, NYSOH issued a notice advising you that the documentation you submitted was insufficient to resolve the inconsistency in your account and additional income documentation was required. This notice requested that you submit income documentation by August 22, 2016.

On August 31, 2016, you updated your application for financial assistance.

On September 1, 2016, NYSOH issued a notice stating more information was needed to make a determination. The notice asked you to submit income documentation for your household by August 22, 2016.

On September 13, 2016, documentation was uploaded to your NYSOH account.

On September 21, 2016, NYSOH redetermined your eligibility for financial assistance.

On September 22, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan, effective November 1, 2016.

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 September 28, 2016, NYSOH issue a notice of enrollment confirmation, based on your plan selection on September 27, 2016, stating that you were enrolled in an Essential Plan effective November 1, 2016.

On October 5, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan as of June 30, 2016 as well as the start date of your Essential Plan, in so far as it did not begin on July 1, 2016.

On January 24, 2017, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date.

On January 25, 2017, you had an adjourned telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the hearing. 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) You testified, and your application indicates, that you receive all of your notices from NYSOH via regular mail.
- 2) You testified that you did not recall if you received the March 1, 2016 eligibility determination stating that your eligibility was only conditional and that you needed to provide documentation of your citizenship status.
- 3) You testified that you did not recall if you received the March 11, 2016 notice advising you that additional citizenship document was required to resolve the inconsistency in your account.
- 4) You testified that you believe you did receive the June 28, 2016 notice advising you that income documentation and citizenship documentation was required in order for NYSOH to make an eligibility determination.
- 5) You testified that you could not recall if you received the July 30, 2016 notices advising you that additional income documentation was required in order for NYSOH to make an eligibility determination.

- 6) You testified that you did not receive the September 1, 2016 notice advising you that additional income documentation was required in order for NYSOH to make an eligibility determination.
- 7) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 8) You testified that you did not know that you needed to submit documentation of your income until you attempted to make a premium payment, but were unable to do so.
- 9) Your NYSOH account indicates that on June 3, 2016 your application was run and you were found no longer eligible for the Essential Plan as of June 30, 2016.
- 10) On March 3, 2016, a document [REDACTED] was uploaded to your NYSOH account. This is a two-page document. The first page contains a handwritten note dated February 29, 2016 indicating "Citizenship proof attached as per your request, page 2". The second page appears to be a United States passport, however, the image is blurry and key elements, such as the passport holder's name, passport identification number, date of birth, date of issuance, and date of expiration are entirely illegible.
- 11) On July 22, 2016 two documents were uploaded to your NYSOH account. The first document [REDACTED] is four pages. The first page is a fax cover sheet from the [REDACTED] dated July 21, 2016. The second page is a certificate of naturalization which is legible. The third and fourth pages are greyed out and entirely illegible. The second document [REDACTED] is two pages. The first page is a fax cover sheet from the [REDACTED] dated July 21, 2016. The second page is a clearer copy of the same certificate of naturalization.
- 12) On September 13, 2016 a document [REDACTED] was uploaded to your NYSOH account. This is a three-page document which consists of images of four paystubs from pay dates August 5, 2016, August 12, 2016, August 19, 2016, and August 26, 2016.
- 13) Your NYSOH account indicates that on September 21, 2016, your application was updated by NYSOH based on the paystubs you submitted and you were found eligible for the Essential Plan as of November 1, 2016.
- 14) The record reflects that you selected an Essential Plan for enrollment on September 27, 2016.

- 15) You testified that you are seeking enrollment in your Essential Plan as of July 1, 2016.

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 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 the Essential 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 (42 CFR §600.305(a)(5)).

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in the Essential Plan. If an applicant attests 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. 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 (42 CFR § 600.345, 45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR §155.315(f)(5)).

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)).

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 in order 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)).

#### Timely Notice of Essential Plan Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).



NYSOH uses the same timeliness standards for eligibility determinations for the Essential Plan as for Medicaid (42 CFR §600.320(b)). NYSOH must provide Medicaid applicants, and therefore Essential Plan applications, notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your eligibility for the Essential Plan ended effective June 30, 2016.

An individual seeking enrollment in the Essential Plan must have, and be able to demonstrate, satisfactory citizenship or immigration status.

In the eligibility determination issued on March 1, 2016, you were advised that you were eligible for the Essential Plan for a limited time, and that you needed to confirm your citizenship status before May 29, 2016.

On March 3, 2016, documentation was uploaded to your NYSOH account, however, this documentation was illegible and therefore insufficient to resolve the inconsistency in your account.

On March 11, 2016, NYSOH issued a notice advising you that additional information was required regarding your citizenship status as the documentation you submitted was insufficient to resolve the inconsistency in your account.

You testified that you could not recall if you received any notice from NYSOH telling you that you needed to provide citizenship documentation to confirm your eligibility. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation.

Accordingly, your eligibility for the Essential Plan terminated as of June 30, 2016 because you did not submit documentation and did not adequately demonstrate that you could not provide documentation to confirm your citizenship status.

Therefore, the June 4, 2016 eligibility determination notice and June 4, 2016 disenrollment notice are AFFIRMED.

The second issue is whether NYSOH provided you with a timely determination of your Essential Plan eligibility as of November 1, 2016.

In addition to citizenship status, for all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income.

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

You updated your NYSOH account on June 23, 2016. The income amount that was entered into this application did not match Federal and State data sources. NYSOH also could not confirm your citizenship status. As a result, NYSOH asked that you submit additional documentation to confirm your income and citizenship status.

On July 22, 2016, a copy of your naturalization certificate was uploaded to your NYSOH account as well as several other pages of illegible documents.

On July 29, 2016, NYSOH redetermined your eligibility for financial assistance.

While the July 22, 2016 submission was sufficient to satisfy the citizenship documentation requirement, the additional documentation was illegible and insufficient to confirm your income.

You updated your NYSOH account on August 31, 2016. The income amount that was entered into this application did not match Federal and State data sources. As a result, NYSOH asked that you submit additional documentation to confirm your income.

On September 13, 2016, legible copies of your paystubs were uploaded to your NYSOH account. Therefore, your application was considered complete as of September 13, 2016 for purposes of issuing an eligibility determination.

NYSOH must provide Essential Plan applicants notice of their eligibility determination within 45 days from the date of the completed application. To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of the completed application to the date NYSOH notifies the applicant of its decision.

NYSOH issued an eligibility determination notice on September 22, 2016 that stated you were eligible for the Essential Plan effective November 1, 2016.

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).

Since NYSOH issued an eligibility determination nine days from the date your application was considered complete, the September 22, 2016 eligibility determination was timely.

The third issue is whether NYSOH properly determined that your eligibility for and enrollment in the Essential Plan was effective November 1, 2016.

The record reflects that NYSOH redetermined your eligibility for financial assistance on September 21, 2016 based on the paystubs you submitted.

The record reflects that you selected an Essential Plan for enrollment on September 27, 2016.

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.

Since the September 22, 2016 eligibility determination notice was timely issued, you were able to select an Essential Plan as of September 22, 2016. On September 27, 2016, you selected an Essential Plan, so your enrollment properly took effect on the first day of the second month following September; that is, on November 1, 2016.

Therefore, the September 22, 2016 eligibility determination notice, and the September 28, 2016 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective November 1, 2016, is correct and must be AFFIRMED.

## **Decision**

The June 4, 2016 notice of eligibility determination is AFFIRMED.

The June 4, 2016 notice of disenrollment is AFFIRMED.

The September 22, 2016 notice of eligibility determination is AFFIRMED.

The September 28, 2016 notice of enrollment is AFFIRMED.

**Effective Date of this Decision:** February 1, 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).

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

NYSOH properly found you not eligible to enroll in the Essential Plan effective June 30, 2016 because you did not provide documentation of your citizenship status.

NYSOH properly found that your reenrollment in the Essential Plan was effective November 1, 2016.

## **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.

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
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## **Summary**

The June 4, 2016 notice of eligibility determination is AFFIRMED.

The June 4, 2016 notice of disenrollment is AFFIRMED.

NYSOH properly found you not eligible to enroll in the Essential Plan effective June 30, 2016 because you did not provide documentation of your citizenship status.

The September 22, 2016 notice of eligibility determination is AFFIRMED.

The September 28, 2016 notice of enrollment is AFFIRMED.

NYSOH properly found that your reenrollment in the Essential Plan was effective November 1, 2016.

## **Legal Authority**

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

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

