



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

## Notice of Decision

Decision Date: March 3, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012584

[REDACTED]

Dear [REDACTED]

On December 19, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's June 10, 2016 eligibility determination and disenrollment notices, and October 7, 2016 enrollment notice and October 10, 2016 eligibility determination.

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.

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## Decision

Decision Date: March 3, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012584



## 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 properly determine that your eligibility for and re-enrollment in an Essential Plan was effective no earlier than November 1, 2016?

## Procedural History

On December 4, 2015, NYSOH issued an eligibility determination notice stating that you were eligible for the Essential Plan effective January 1, 2016. That same day, you enrolled in an Essential Plan with such coverage to take effect beginning January 1, 2016.

On June 9, 2016, NYSOH received an update to your application for health insurance.

On June 10, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to receive advance payments of the premium tax credit (APTC) of up to \$124.00 per month and, if you selected a silver-level plan, newly eligible for cost-sharing reductions (CSR), effective July 1, 2016.

On June 10, 2016, NYSOH issue a disenrollment notice stating that your coverage under the Essential Plan effective June 30, 2016. This was because you were no longer eligible to remain enrolled in that health plan.

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On July 21, 2016, NYSOH received a further update to your application for health insurance.

On July 22, 2016, NYSOH issued a notice stating that you might be eligible for health insurance through NYSOH, but that more information was needed to make a determination. You were requested to provide income documentation by August 5, 2016 so that an appropriate determination could be made.

On July 22, 2016, NYSOH received (1) four earnings statements issue to you by your employer, [REDACTED], between May 13, 2016 and July 8, 2016, (2) three earnings statements issued to you by your other employer, [REDACTED], between July 1, 2016 and July 15, 2016, and (3) one earnings statements with no identifying information of the employer.

On July 30, 2016, NYSOH issued a notice acknowledging receipt of the documentation you provided; however, it stated that the documents you provided were insufficient to resolve the discrepancy in your application. The notice requested that you provide additional income documentation by August 20, 2016 in order to determine your eligibility.

On September 3, 2016, NYSOH redetermined your eligibility based on information contained in your account as of September 3, 2016.

On September 4, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan (QHP) at full cost. The notice stated that you were not eligible to enroll in the Essential Plan because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility determination was effective October 1, 2016.

On September 8, 2016, NYSOH received a further update to your application for health insurance.

On September 9, 2016, NYSOH issued a notice stating that you may be eligible for health insurance through NYSOH, though more information was needed to make a determination. You were requested to provide income documentation by September 23, 2016 so that an appropriate determination could be made.

Also on September 9, 2016, NYSOH received (1) two earnings statements issue to you by [REDACTED] on August 19, 2016 and September 2, 2016, (2) an employee history report issued to you by [REDACTED] reflecting gross earnings you received on August 6, 2016 and August 13, 2016, and (3) two earnings statements issued to you by [REDACTED] on August 20, 2016 and August 27, 2016.

On September 10, 2016, NYSOH received a duplicate copy the employee history report issued to you by [REDACTED] reflecting gross earnings you received on August 6, 2016 and August 13, 2016.

On September 12, 2016, NYSOH received (1) three earnings statements issued to you by [REDACTED] on August 5, 2016, August 19, 2016 and September 2, 2016, (2) a duplicate copy the employee history report issued to you by [REDACTED] reflecting gross earnings you received on August 6, 2016 and August 13, 2016 and (3) two earnings statements issued to you by [REDACTED] on August 20, 2016 and August 27, 2016.

On September 17, 2016 and September 22, 2016, NYSOH issued notices acknowledging receipt of the documentation you provided; however, it stated that the documents you provided were insufficient to resolve the discrepancy in your application. The notice requested that you provide additional income documentation by October 8, 2016 and October 23, 2016, respectively.

On October 6, 2016, NYSOH received a further update to your application for health insurance. In response to this application update, NYSOH prepared a preliminary eligibility determination stating that you were eligible for the Essential Plan effective November 1, 2016.

On October 7, 2016, NYSOH issued an enrollment notice confirming your selection of an Essential Plan as of October 6, 2016. The notice stated that your coverage under the Essential Plan would begin effective November 1, 2016.

On October 10, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan, effective November 1, 2016.

On October 17, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential Plan insofar as it did not begin July 1, 2016.

On December 19, 2016, 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) You testified, and your application indicates, that you receive all of your notices from NYSOH by regular mail.

- 2) You testified that you did not receive any notices stating that your eligibility could not be determined and that you needed to provide documentation of your household's income to confirm the information in your account was accurate.
- 3) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 4) You testified that you did not know that you needed to submit documentation of your income until you were informed by your healthcare provider that you have been disenrolled from your Essential Plan. You subsequently contacted NYSOH for an update.
- 5) You testified, and your application reflects, that you expect to file your 2016 taxes with a tax filing status of head of household, and claim your three children as dependents.
- 6) Your NYSOH account indicates that on June 9, 2016 you revised your application to reflect that your expected annual income was \$48,664.00. As a result of this revision to your application, you were found eligible for an APTC of up to \$124.00 per month and, if you selected a silver-level plan, eligible for CSR, effective July 1, 2016. You testified that this revised application was the result of information provided to a certified application counselor, and that by the time this information was submitted to NYSOH or your behalf, it was no longer accurate.
- 7) You were disenrolled from your Essential Plan effective June 30, 2016.
- 8) Your NYSOH account indicated that you further revised your application on July 21, 2016 to reflect that your expected annual income had decreased to \$21,164.00.
- 9) You were requested to provide additional income documentation to confirm your eligibility.
- 10) You submitted income documentation to NYSOH on July 22, 2016, September 9, 2016, September 10, 2016 and September 12, 2016, which in each case included earnings statements issued by both of your employers. You testified that you provided these documents in response to NYSOH's request for additional income documentation.
- 11) You updated the income information in your NYSOH account on October 6, 2017, and were found eligible to enroll in an Essential Plan effective November 1, 2016.

- 12) You testified that you are seeking enrollment in your Essential Plan as of July 1, 2016 since you had outstanding medical bills.

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

## **Applicable Law and Regulations**

### Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

### 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)).

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)).

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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)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your Essential Plan coverage was terminated effective June 30, 2016.

The record reflects that you initially enrolled in the Essential Plan effective January 1, 2016 as a result of an update to your application received on November 28, 2015.

The record further reflects that on June 9, 2016, NYSOH received an update to your application for health insurance, which reflected that you had an expected income during 2016 of \$48,664.00. The eligibility determination relied on this information.

You testified that this update was provided by a certified application counselor reflecting stale information, and that by that time, you were no longer earning nearly \$48,664.00 because one of your employers severely reduced the overall income you had been expecting. However, because the record does not contain any information to suggest this information was not accurate at the time or that the certified application counselor was not acting on your behalf at your request, NYSOH did not err in accepting this information when rendering its determination.



You are in a four-person household. You testified, and the record reflects, that you expect to file your 2016 tax return with a tax filing status of head of household and claim your three children as dependents.

APTC is available to a person who has a household income no less than 200% and no greater than 400% of the FPL. Since a household income of \$48,664.00 is 200.68% of the applicable FPL, NYSOH correctly found you to be eligible for APTC.

Since you were found eligible for APTC, you are not eligible for the Essential Plan. Accordingly, the June 10, 2016 eligibility determination and disenrollment notice were correct in finding that you were no longer eligible for enrollment under the Essential Plan effective June 30, 2016, and so must be AFFIRMED.

The second issue under review is whether NYSOH properly determined that your eligibility for and enrollment in the Essential Plan began no earlier than November 1, 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. 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.

A notice was issued by NYSOH on July 30, 2016 stating that a determination could not be made based on the information you provided to the NYSOH. You were advised that you needed to provide income documentation in order to confirm that the information in your application was accurate so that NYSOH could issue an appropriate determination.

You testified that you did not receive any notice from NYSOH telling you that you needed to provide income 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.

You submitted income documentation to NYSOH on July 22, 2016, September 9, 2016, September 10, 2016 and September 12, 2016, which in each case, included earnings statements issued by both of your employers. However, in

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each case, the record reflects that the documentation you provided was insufficient because you did not provide a total of four weeks of earnings statements from each employer.

On October 6, 2016, you revised your application again to reflect an expected annual income of \$46,800.00, which resulted in you begin found eligible to enroll in the Essential Plan once more. The record reflects that you selected a plan that same day on October 6, 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 on October 6, 2016, you selected an Essential Plan, your enrollment would properly take effect on the first day of the month following October 2016; that is, on November 1, 2016.

Therefore, the October 10, 2016 eligibility determination notice, and the October 7, 2016 enrollment notice stating that your enrollment in the Essential Plan was effective November 1, 2016, is correct and must be AFFIRMED.

## **Decision**

The June 10, 2016 eligibility determination and disenrollment notices are AFFIRMED.

The October 7, 2016 enrollment notice is AFFIRMED.

The October 10, 2016 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** March 3, 2017

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

This decision does not change your eligibility.

Your Essential Plan coverage ended effective June 30, 2016.

Your Essential Plan coverage resumed effective November 1, 2016.

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## **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:  
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- By fax: 1-855-900-5557

## **Summary**

The June 10, 2016 eligibility determination and disenrollment notices are **AFFIRMED**.

The October 7, 2016 enrollment notice is **AFFIRMED**.

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The October 10, 2016 eligibility determination notice is AFFIRMED.

This decision does not change your eligibility.

Your Essential Plan coverage ended effective June 30, 2016.

Your Essential Plan coverage resumed 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:**

