



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

Notice of Decision

Decision Date: April 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012987

[REDACTED]

Dear [REDACTED],

On February 14, 2017, your spouse, acting as your authorized representative, appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 2016 eligibility redetermination notice and the November 2, 2016 eligibility redetermination and enrollment confirmation 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).

This page intentionally left blank.



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

Decision

Decision Date: April 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012987



Issues

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

Did NY State of Health (NYSOH) properly determine that your and your spouse's eligibility for the Essential Plan was conditional, as of January 1, 2016, as stated in the November 22, 2015 and December 4, 2015 eligibility determination notices?

Did NYSOH properly determined that your and your spouse's eligibility for the Essential Plan ended effective October 31, 2016?

Procedural History

On November 22, 2015, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective January 1, 2016. The notice further directed you to provide documentation confirming your household income before February 18, 2016.

Also on November 22, 2015, NYSOH issued a notice confirming your and your spouse's enrollment in an Essential Plan, effective January 1, 2016.

On November 27, 2015, NYSOH issued a notice stating that you had been previously notified that additional information was required to confirm your eligibility for health insurance. The notice further stated that you had since submitted documentation to resolve the inconsistency; however, the documentation was insufficient to resolve the request. You were directed to

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).

provide additional information to prove the income for your household. No new date was set for providing the requested information.

On December 4, 2015, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective January 1, 2016. The notice again directed you to provide documentation confirming your household income before February 18, 2016.

On September 18, 2016, NYSOH issued an eligibility redetermination notice stating that you and your spouse were newly eligible to purchase a qualified health plan at full cost, effective November 1, 2016. The notice further stated that you were not eligible for Medicaid, Child Health Plus, the Essential Plan or advance premium tax credits because NYSOH did not receive the income documentation needed to verify the income listed in your application.

Also on September 18, 2016, NYSOH issued a disenrollment notice stating that your and your spouse's enrollment in the Essential Plan would end as of October 31, 2016, because you were no longer eligible to remain in your plan.

On November 1, 2016, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared finding you and your spouse eligible to enroll in the Essential Plan, effective December 1, 2016. That same day, you selected for yourself and our spouse an Essential Plan with a start date of December 1, 2016.

Also on November 1, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan for the month of November 2016.

On November 2, 2016, NYSOH issued an eligibility redetermination notice, based on your November 1, 2016 application, stating that you and your spouse were eligible to enroll in the Essential Plan, effective December 1, 2016.

Also on November 2, 2016, NYSOH issue an enrollment confirmation notice, based on your plan selection on November 1, 2016, stating that you and your spouse were enrolled in an Essential Plan effective December 1, 2016.

On February 14, 2017, your spouse, acting on your behalf as your authorized representative, had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to February 28, 2017, to allow you to submit supporting documents.

As of February 28, 2017, the Appeals Unit did not receive any documents from you and none were viewable in your NYSOH account. Therefore, the record was closed that same day and this Decision is based on the record as developed at the time 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 authorized representative's testimony, you receive all of your notices from NYSOH via regular mail.
- 2) Your authorized representative testified that she did not remember receiving any notices stating that your eligibility was only conditional and that you needed to provide documentation of your household's income by February 18, 2016.
- 3) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 4) Your authorized representative testified that you used the services of a broker to assist you with your November 20, 2015 application for health insurance.
- 5) Your authorized representative testified that you provided the broker with a complete copy of your 2014 Federal Income Tax return which was to be used as proof of your household income.
- 6) According to your NYSOH account, on November 20, 2015, only the first page of your 2014 Federal Income Tax return was uploaded to your account by your broker. (see Document [REDACTED]).
- 7) The one page of your 2014 federal income tax return that was submitted by the broker contained both your names, both your Social Security numbers and the then current street address. That one page of your 2014 federal tax return also contained a listing of your income and on line 37 your adjusted gross income was shown as \$29,510.00.
- 8) According to your NYSOH account, the submitted single page from your 2014 federal income tax return was reviewed by NYSOH representative on November 27, 2015 and deemed invalid for proof of income. A notice stating your submitted documentation was invalid was mailed to your listed address on November 27, 2015.
- 9) No additional documentation was submitted by February 18, 2016.
- 10) Your NYSOH account indicates that on September 17, 2016, your application was run systematically and you and your spouse were found no longer eligible for the Essential Plan as of October 31, 2016,

because you had not provided the required income documentation within the allotted timeframe.

- 11) According to your NYSOH account and your authorized representative's testimony, on November 1, 2016, you contacted NYSOH and updated the information in your account.
- 12) According to your NYSOH account, the November 20, 2015, November 27, 2015, and the November 1, 2016 applications for health insurance submitted to NYSOH all list a household income of \$30,000.00.
- 13) According to your NYSOH account, the September 17, 2016 NYSOH system run eligibility redetermination also used a household income of \$30,000.00.
- 14) The difference between the \$30,000.00 household income used by NYSOH in all the eligibility determinations and the 2014 federal income tax return adjusted gross income of \$29,510.00 is \$490.00.
- 15) Your authorized representative testified that you were not aware of the lapse in your and your spouse's insurance coverage until you went for a medical procedure on [REDACTED] and were informed then that your health insurance coverage had lapsed.
- 16) Your authorized representative testified that your [REDACTED] medical procedure cost about \$3,500.00.
- 17) Your authorized representative testified that you are both seeking re-enrollment in your Essential Plan as of November 1, 2016 so the unpaid medical procedure and related costs will be covered.

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

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).

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)).

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 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 issue under review is whether NYSOH properly determined that your and your spouse's eligibility for the Essential Plan ended effective October 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. For individuals seeking enrollment in the Essential Plan, NYSOH must request income data from federal data sources 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.

In the eligibility determination issued on November 22, 2015, you were advised that you and your spouse were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income before February 18, 2016.

Your authorized representative credibly testified that you provided your broker with a complete copy of your 2014 federal income tax return to be used as proof of income with your November 20, 2015 application. Your NYSOH account reflects that on November 20, 2015, your broker only uploaded the first page of your 2014 federal income tax return.

That one page of your 2014 federal income tax return that was submitted by the broker contained both your names, both your Social Security numbers and the then current street address. Further, that one page of your tax return contained a listing of your income and on line 37 your adjusted gross income was shown as \$29,510.00.

According to your NYSOH account, this document was reviewed on November 27, 2015 and deemed invalid as proof of income. That day, a notice was mailed to you stating the document submitted was insufficient proof of income and you were directed to provide additional documentation regarding your household income.

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 to resolve the inconsistency. However, in this case, you have consistently listed your household income on your applications for health insurance as \$30,000.00. Even the September 17, 2016 system run eligibility redetermination and the November 1, 2016 eligibility redetermination prepared used \$30,000.00 as your household income. Your 2014 Income tax return shows that your adjusted gross income was \$29,510.00, which differs slightly from \$30,000.00 and, therefore, is reasonably compatible with the household income listed on your applications.

Therefore, it is concluded that NYSOH erred in requiring you to provide additional income documentation to confirm your eligibility for the Essential Plan.

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).

To bring the notices in line with this Decision, the following changes must occur:

The November 22, 2015 and December 4, 2015 eligibility determination notices are MODIFIED to state that you and your spouse are eligible for the Essential Plan, effective January 1, 2016, without condition or the need to provide income documentation.

The November 27, 2015 notice requesting that you provide additional information is rendered moot.

The September 18, 2016 eligibility determination and disenrollment notices stating that you and your spouse were no longer eligible for the Essential Plan because you failed to submit income documentation are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your and your spouse's coverage in your Essential Plan as of November 1, 2016.

Decision

The November 22, 2015 and December 4, 2015 eligibility determination notices are MODIFIED to state that you and your spouse are eligible for the Essential Plan, effective January 1, 2016, without condition or the need to provide income documentation.

The November 27, 2015 notice requesting that you provide additional information is rendered moot.

The September 18, 2016 notice of eligibility determination is RESCINDED.

The September 18, 2016 notice of disenrollment is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your and your spouse's coverage in your Essential Plan as of November 1, 2016, and to notify you accordingly.

The November 2, 2016 eligibility redetermination and enrollment confirmation notices remain in full force and effect and are not disturbed by this Decision.

Effective Date of this Decision: April 3, 2017

How this Decision Affects Your Eligibility

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).

NYSOH erred in terminating your and your spouse's Essential Plan effective October 31, 2016, for failure to submit proof of income.

Your case is being sent back to NYSOH to reinstate your and your spouse's coverage in your Essential Plan as of November 1, 2016. NYSOH will notify you once this has been completed.

You will be responsible for any insurance premiums due for your and your spouse's coverage to resume for the month of November 2016.

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 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 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 November 22, 2015 and December 4, 2015 eligibility determination notices are MODIFIED to state that you and your spouse are eligible for the Essential Plan, effective January 1, 2016, without condition or the need to provide income documentation.

The November 27, 2015 notice requesting that you provide additional information is rendered moot.

The September 18, 2016 notice of eligibility determination is RESCINDED.

The September 18, 2016 notice of disenrollment is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your and your spouse's coverage in your Essential Plan as of November 1, 2016, and to notify you accordingly.

The November 2, 2016 eligibility redetermination and enrollment confirmation notices remain in full force and effect and are not disturbed by this Decision.

NYSOH erred in terminating your and your spouse's Essential Plan effective October 31, 2016, for failure to submit proof of income.

Your case is being sent back to NYSOH to reinstate your and your spouse's coverage in your Essential Plan as of November 1, 2016. NYSOH will notify you once this has been completed.

You will be responsible for any insurance premiums due for your and your spouse's coverage to resume for the month of November 2016.

Legal Authority

We are issuing this determination in accordance with 45 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).

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 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.

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).