



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

## Notice of Decision

Decision Date: February 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013112

[REDACTED]

Dear [REDACTED],

On February 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 2016 eligibility determination 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 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013112

[REDACTED]

## 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 eligibility for the Essential Plan ended effective October 31, 2016?

## Procedural History

On December 6, 2015, NYSOH issued a notice of eligibility determination stating that you 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 income before March 1, 2016.

Also on December 6, 2015, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective January 1, 2016.

On September 18, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan 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 was effective November 1, 2016.

Also on September 18, 2016, NYSOH issued a disenrollment notice stating that your 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 7, 2016, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible to enroll in the Essential Plan and you selected a plan for enrollment.

Also on November 7, 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 8, 2016, NYSOH issued a notice of eligibility determination, based on your November 7, 2016 application, stating that you were eligible to enroll in the Essential Plan for a limited time, effective December 1, 2016.

Also on November 8, 2016, NYSOH issue a notice of enrollment confirmation, based on your plan selection on November 7, 2016 stating that you were enrolled in an Essential Plan effective December 1, 2016.

On February 17, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Also on the phone was [REDACTED] a broker who appeared as your authorized representative. 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 receive any notices stating that your eligibility was only conditional and that you needed to provide documentation of your household's income.
- 3) Your authorized representative testified that he also did not see the December 6, 2015 eligibility determination notice in your account when he went into it a few weeks after your December 2015 application.
- 4) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 5) You testified that you did not know that there was a problem with your coverage until you received a bill for medical services sometime in December 2016.
- 6) You testified that you paid your premium for the month of November 2016, and that it was accepted by your health plan.

- 7) Your authorized representative testified that he provided income documentation to NYSOH on your behalf when your application was updated in December 2015, and thought that everything that was needed had been provided.
- 8) Your NYSOH account reflects that a 23-page document was uploaded to your account on December 2, 2015, the same day that your application was updated. The documentation consisted of your 2014 state and federal income tax return [REDACTED].
- 9) The adjusted gross income listed on your 2014 federal income tax return was \$20,433.00 [REDACTED].
- 10) Your December 2, 2015 application listed expected annual income of \$22,000.00.
- 11) There is no indication in your account that the documentation uploaded on December 2, 2015 was ever reviewed by anyone at NYSOH.
- 12) Your authorized representative testified that he contacted NYSOH after your Essential Plan coverage was discontinued, and that a NYSOH representative told him that your coverage ended because you did not submit income documentation.
- 13) Your authorized representative testified that he informed the NYSOH representative that income documentation had been provided, and the NYSOH representative had no response.
- 14) Your NYSOH account indicates that on September 17, 2016, your application was run and you were found no longer eligible for the Essential Plan as of November 1, 2016.
- 15) You updated the income information in your NYSOH account on November 7, 2016.
- 16) You testified that you are seeking enrollment in your Essential Plan as of November 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)).

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

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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 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 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.

In the eligibility determination issued on December 6, 2015, you were advised that you were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income before March 1, 2016.

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

However, your authorized representative testified that he submitted income documentation to NYSOH when he updated your application. The record confirms this testimony, as your NYSOH account contains a 23-page document consisting of your 2014 state and federal personal income tax returns that was uploaded on December 2, 2015. It is noted that the adjusted gross income listed on your income tax return, and the expected annual income you provided to NYSOH on your December 2, 2015 application were roughly consistent with one another, as they differed by less than \$2,000.00.

NYSOH should have reviewed the income documentation that was provided on December 2, 2015 and made a determination as to whether it was sufficient to resolve the request for income documentation. However, your account contains

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no indication that anyone from NYSOH ever reviewed the documentation that you provided in December 2015.

Accordingly, since you provided income documentation to NYSOH which NYSOH failed to review, the September 18, 2016 eligibility determination and disenrollment notices, stating that you are no longer eligible for the Essential Plan because you failed to submit documentation, are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan as of November 1, 2016 so that you have no gap in your Essential Plan coverage for the year 2016.

## **Decision**

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

The September 18, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate you in your Essential Plan coverage for the month of November 2016.

**Effective Date of this Decision:** February 22, 2017

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

NYSOH erred in terminating your Essential Plan effective October 31, 2016, as you had provided income documentation that was never reviewed by NYSOH.

Your case is being sent back to NYSOH to reinstate your coverage in your Essential Plan as of November 1, 2016 so that there is no gap in your 2016 coverage.

## **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.

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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 September 18, 2016 notice of eligibility determination is RESCINDED.

The September 18, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate you in your Essential Plan coverage for the month of November 2016.

NYSOH erred in terminating your Essential Plan effective October 31, 2016, as you had provided income documentation that was never reviewed by NYSOH.

Your case is being sent back to NYSOH to reinstate your coverage in your Essential Plan as of November 1, 2016 so that there is no gap in your 2016 coverage.

## **Legal Authority**

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

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

