



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

Notice of Decision

Decision Date: May 2, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013283

[REDACTED]

Dear [REDACTED],

On February 24, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 20, 2016 disenrollment notice, and November 16, 2016 eligibility determination and enrollment 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 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 Date: May 2, 2017

NY State of Health Account ID: [REDACTED]
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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 Essential Plan coverage was terminated effective October 31, 2016?

Did NYSOH properly determine that your Essential Plan coverage resumed no earlier than January 1, 2017?

Procedural History

On March 19, 2016, NYSOH issued an eligibility determination notice based on the information contained in the March 18, 2016 application. The notice stated that you were eligible to enroll in the Essential Plan for a limited time. You were requested to provide income documentation before June 16, 2016. This eligibility determination was effective May 1, 2016.

Also on March 19, 2016, NYSOH issued an enrollment notice confirming your selection of an Essential Plan as of March 18, 2016. The notice stated that your Essential Plan coverage would begin effective May 1, 2016. However, your Essential Plan enrollment start date, according to your discussions with the insurance carrier, was backdated to begin effective March 1, 2016.

On April 22, 2016, NYSOH received undated copies of your 2015 Federal and New York State tax returns.

On April 27, 2016, NYSOH issued a notice stating that the documentation you submitted to resolve the request by NYSOH was determined to be insufficient. You were again requested to provide proof of income.

On May 19, 2016, NYSOH received a copy of your 2015 Federal tax return, which you dated, signed, and indicated the original version was e-filed. Your federal return reflected an adjusted gross income (Line 38) of \$13,431.00.

On May 24, 2016, NYSOH issued a notice stating that the documentation you submitted to resolve the request by NYSOH was determined to be insufficient. You were again requested to provide proof of income.

On September 19, 2016, NYSOH redetermined your eligibility based on the information contained in your account as of September 19, 2016.

On September 20, 2016, NYSOH issued an eligibility redetermination notice finding you newly eligible to receive advance payments of the premium tax credit (APTC) of up to \$97.00 per month, effective November 1, 2016. You were found not to be eligible for Medicaid because stated and federal sources show that your household income was above \$16,395.00. No reasoning was provided as to why you were not eligible for the Essential Plan.

Also on September 20, 2016, NYSOH issued a disenrollment notice confirming that your Essential Plan coverage would end effective October 31, 2016, since you were found no longer eligible to remain enrolled in that plan.

On September 22, 2016, NYSOH received an update to your application for health insurance.

On September 23, 2016, NYSOH issued an eligibility determination notice stating that you were found eligible to receive an APTC of up to \$255.00 per month and, if you enrolled in a silver-level plan, eligible for cost-sharing reductions (CSR), effective November 1, 2016. You were found not eligible for Medicaid and the Essential Plan because your income was over the allowable amounts for each of those programs.

On September 24, 2016, NYSOH received an update to your application for health insurance.

On September 25, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan for a limited time. You were requested to provide income documentation by December 23, 2016. This eligibility determination was effective November 1, 2016. The record reflects that you made no attempt to enroll in an Essential Plan at that time.

On November 15, 2016, NYSOH received an update to your application for health insurance. In response to this application, NYSOH prepared a preliminary

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eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective January 1, 2017.

Also on November 15, 2016, NYSOH received (1) six earnings statements issued to you by [REDACTED] between September 2, 2016 and November 11, 2016, (2) one earnings statement issued to you by [REDACTED] on November 10, 2016, (3) six earnings statements issued to you by [REDACTED] between October 7, 2016 and November 10, 2016, and (4) six earnings statements issued to you by [REDACTED] issued on October 7, 2016 and November 10, 2016.

Also on November 15, 2016 you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan effective October 31, 2016, and your subsequent reenrollment effective January 1, 2017.

On November 16, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan for a limited time. You were requested to provide income documentation by December 23, 2016. This eligibility determination was effective January 1, 2017.

Also on November 16, 2016, NYSOH issued an enrollment notice confirming your selection of an Essential Plan as of November 15, 2016. The notice stated that your Essential Plan coverage would begin effective January 1, 2017.

On February 24, 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 support the following findings of fact:

- 1) You testified, and your NYSOH account confirms, that you receive your notices from NYSOH by electronic mail.
- 2) You testified that you did not received the electronic alerts notifying you of notices in your NYSOH account stating that your eligibility was only conditional and that you needed to provide documentation of your income.
- 3) You testified, and your account reflects, that in response to the notices requesting that you provide additional income documentation, on April 22, 2016 you provided a copy of your Federal and NYS tax return for 2015. However, this document was determined to be insufficient since it was neither signed nor dated.

- 4) You testified, and your account reflects, that on May 19, 2016 you provided a copy of your 2015 Federal tax return and accompanying schedules, which you dated, signed and indicated the original version was e-filed. Your federal return reflected an adjusted gross income (Line 38) of \$13,431.00. However, these documents in the totality were determined not to be valid since you did not provide the accompanying four weeks of earnings statements for each of your five employers.
- 5) Your NYSOH account indicates that on September 19, 2016 your application was run and you were found no longer eligible for the Essential Plan as of October 31, 2016. This was based on a determination issued on September 20, 2016, finding you eligible an APTC of up to \$97.00 per month, effective November 1, 2016.
- 6) On September 24, 2016, you submitted a revised application, and were found eligible to enroll in the Essential Plan for a limited time, effective November 1, 2016. However, the record does not contain a reenrollment in the Essential Plan at that time.
- 7) On November 15, 2016, you submitted to NYSOH (1) six earnings statements issued to you by [REDACTED] between September 2, 2016 and November 11, 2016, (2) one earning statement issued to you by [REDACTED] on November 10, 2016, (3) six earnings statements issued to you by [REDACTED] between October 7, 2016 and November 10, 2016, and (4) six earnings statements issued to you by [REDACTED] issued on October 7, 2016 and November 10, 2016.
- 8) Based on a revised application submitted on November 15, 2016 and the additional income documents you provided on November 15, 2016, you were again found eligible to enroll in the Essential Plan for a limited time. This eligibility determination was effective January 1, 2017.
- 9) You selected an Essential Plan for reenrollment on November 15, 2016. Your coverage in the Essential Plan resumed effective January 1, 2017.
- 10) You testified that you are seeking reinstatement of your Essential Plan for between November 1, 2016 and December 31, 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 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,

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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)).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see also 42 CFR § 600.320). For selections 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 §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The first 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 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 March 19, 2016, 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 June 16, 2016.

The record reflects that in response to that eligibility determination requesting additional income documentation, NYSOH received (1) on April 22, 2016 you provided a copy of your Federal and NYS tax return for 2015; however, it was determined by NYSOH to be insufficient since it was neither signed nor dated, and (2) on May 19, 2016 you provided a copy of your 2015 Federal tax return and accompanying schedules, which you dated, signed and indicated the original

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version was e-filed; however, these documents in the totality were determined by NYSOH not to be sufficient since you did not provide the accompanying four weeks of earnings statements for each of your five employers.

No additional income documents were received by NYSOH prior to the June 16, 2016 deadline.

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 October 31, 2016 because you did not submit the necessary documentation and did not adequately demonstrate that you could not provide documentation to confirm your income.

Therefore, the September 20, 2016 disenrollment notice is AFFIRMED.

The second issue is whether NYSOH properly determined that your eligibility for and enrollment in the Essential Plan was effective January 1, 2017.

Your account reflects that you updated your NYSOH application on September 24, 2016. Based on the information contained in that application, you were found eligible for the Essential Plan for a limited time, effective November 1, 2016. However, the record does not contain any attempt to reenroll in an Essential Plan at that time.

Your account further reflects that you updated your NYSOH application on November 15, 2016, in which you included additional income documentation in the form of multiple earnings statements issued to you by your several employers. As a result, you were again found eligible for the Essential Plan for a limited time, in this case effective January 1, 2016. You selected the Essential Plan for your coverage on November 15, 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 November 15, 2016, you selected an Essential Plan, your enrollment would properly take effect on the first day of the month following November 2016; that is, on December 1, 2016.

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Therefore, the November 16, 2016 eligibility determination notice, and the November 16, 2016 enrollment notice are MODIFIED to state that your eligibility for and enrollment in the Essential Plan was effective December 1, 2016.

Your case is RETURNED to effectuate the modifications to your eligibility and enrollment noted above.

Please note, however, that you will be responsible for premiums due, if any, in connection with the reinstatement of your Essential Plan coverage during the month of December 2016.

Decision

The September 20, 2016 disenrollment notice is AFFIRMED.

The November 16, 2016 eligibility determination notice and the November 16, 2016 enrollment notice are MODIFIED to state that your eligibility for and enrollment in the Essential Plan was effective December 1, 2016

Your case is RETURNED to effectuate the modifications to your eligibility and enrollment noted above.

Effective Date of this Decision: May 2, 2017

How this Decision Affects Your Eligibility

Your Essential Plan coverage was terminated effective October 31, 2016, and reinstated effective December 1, 2016.

Please note, however, that you will be responsible for premiums due, if any, in connection with the reinstatement of your Essential Plan coverage during the month of December 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

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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 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 20, 2016 disenrollment notice is **AFFIRMED**.

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The November 16, 2016 eligibility determination notice and the November 16, 2016 enrollment notice are MODIFIED to state that your eligibility for and enrollment in the Essential Plan was effective December 1, 2016

Your case is RETURNED to effectuate the modifications to your eligibility and enrollment noted above.

Your Essential Plan coverage was terminated effective October 31, 2016, and reinstated effective December 1, 2016.

Please note, however, that you will be responsible for premiums due, if any, in connection with the reinstatement of your Essential Plan coverage during the month of December 2016.

Legal Authority

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

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।

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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&btumi 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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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