



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

## Notice of Decision

Decision Date: March 2, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013352

[REDACTED]

Dear [REDACTED],

On February 15, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 14, 2016 eligibility determination notice, the November 18, 2016 eligibility determination notice and the November 18, 2016 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 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.

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## Decision

Decision Date: March 2, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013352

[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 November 30, 2016?

Did NYSOH properly determine that your eligibility for and enrollment in the Essential Plan was effective January 1, 2017?

## Procedural History

You were enrolled in Medicaid beginning September 1, 2015.

On July 8, 2016, NYSOH received a revised application for health insurance, in which you attested to an increase of your household income to \$19,558.41.

On July 9, 2016, NYSOH issued an eligibility determination notice stating that you were no longer eligible for Medicaid; however, your Medicaid coverage would continue until August 31, 2016. This is because certain individuals who qualified for Medicaid get coverage for twelve continuous months from the date they were last determined eligible. You were advised to update your account between July 16, 2016 and August 15, 2016 so NYSOH could redetermine your eligibility. This eligibility determination was effective July 1, 2016.

On July 21, 2016, NYSOH received (1) four earnings statements issued to you by the [REDACTED] between June 3, 2016 and July 15, 2016, and (2) three earnings statements issued to you by [REDACTED]

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between June 10, 2016 and July 8, 2016. These documents were posted to your NYSOH account on August 2, 2016.

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

On August 10, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective September 1, 2016. The notice further directed you to provide additional documentation confirming your income by November 7, 2016.

On August 13, 2016, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective September 1, 2016.

On November 14, 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 December 1, 2016.

On November 17, 2016, NYSOH received an update to your application for health insurance. In response to this application, NYSOH prepared a preliminary determination notice stating that you were eligible to enroll in the Essential Plan, effective January 1, 2017.

Also on November 17, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan for the month of December 2016.

On November 18, 2016, NYSOH issued an eligibility determination notice based on the information contained in the November 17, 2016 application. The notice stated that you were eligible to enroll in the Essential Plan, effective January 1, 2017.

Also on November 18, 2016, NYSOH issue a notice of enrollment confirmation, based on your plan selection on November 17, 2016, stating that you were enrolled in an Essential Plan effective January 1, 2017.

On November 22, 2016, NYSOH issued a disenrollment notice stating that your enrollment in the Essential Plan would end as of November 30, 2016, because you were no longer eligible to remain in your plan.

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 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 the August 10, 2016 notice stating that your eligibility was only conditional and that you needed to provide additional income documentation of your household's income.
- 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 went to the pharmacist to refill a prescription, and were charged the full amount.
- 5) Your NYSOH account indicates that on November 13, 2016, your application was run and you were found no longer eligible for the Essential Plan as of November 30, 2016.
- 6) You updated the income information in your NYSOH account on November 17, 2016.
- 7) You testified that you are seeking enrollment in your Essential Plan as of December 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 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 eligibility for the Essential Plan ended effective November 30, 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

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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 notice issued on August 10, 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 November 7, 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, 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 November 30, 2016 because you did not submit documentation and did not adequately demonstrate that you could not provide documentation to confirm your income.

Therefore, the November 14, 2016 eligibility determination 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.

You testified, and your account confirms, that you updated your NYSOH application on November 17, 2016. That day, you selected an Essential Plan for enrollment.

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.

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Since on November 17, 2016, you selected an Essential Plan, your enrollment would properly take effect on the first day of the second month following November 2016; that is, on January 1, 2017.

Therefore, the November 18, 2016 eligibility determination notice, and the November 18, 2016 enrollment notice stating that your enrollment in the Essential Plan was effective January 1, 2017, is correct and must be AFFIRMED.

## **Decision**

The November 14, 2016 notice of eligibility determination notice is AFFIRMED.

The November 18, 2016 notice of eligibility determination notice is AFFIRMED.

The November 18, 2016 notice of enrollment is AFFIRMED.

**Effective Date of this Decision:** March 2, 2017

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

NYSOH properly found you not eligible to enroll in the Essential Plan effective November 30, 2016 because you did not provide documentation of your household's income.

NYSOH properly found that your reenrollment in the Essential Plan was effective January 1, 2017.

## **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

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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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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The November 14, 2016 notice of eligibility determination notice is AFFIRMED.

The November 18, 2016 notice of eligibility determination notice is AFFIRMED.

The November 18, 2016 notice of enrollment is AFFIRMED.

NYSOH properly found you not eligible to enroll in the Essential Plan effective November 30, 2016 because you did not provide documentation of your household's income.

NYSOH properly found that your reenrollment in the Essential Plan was effective January 1, 2017.

### **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:**

