



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

Notice of Decision

Decision Date: April 04, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013771

[REDACTED]

Dear [REDACTED],

On March 20, 2017, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health's October 11, 2016 disenrollment notice and October 12, 2016 eligibility determination 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

Decision Date: April 04, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013771

[REDACTED]

Issue

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

Did NY State of Health properly determine that you and your spouse's eligibility for and enrollment in the Essential Plan ended effective October 31, 2016?

Procedural History

On December 4, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination 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 income before March 2, 2016. The notice stated the household income listed in your application was \$27,868.00.

On December 4, 2015 NYSOH issued a notice confirming your enrollment in an Essential Plan, effective January 1, 2016.

No income documentation was received by NYSOH before March 2, 2016.

On July 6, 2016, NYSOH issued a notice of eligibility determination based on your July 5, 2016 application stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective August 1, 2016. The notice further directed you to provide documentation confirming your income before

October 3, 2016. The notice stated the household income listed in your application was \$27,868.00.

On July 6, 2016 NYSOH issued a notice confirming your enrollment on July 5, 2016 in an Essential Plan, effective January 1, 2016.

No income documentation was received by NYSOH before October 3, 2016.

On October 11, 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 October 12, 2016, an eligibility determination notice was issued stating you and your spouse were eligible to receive advance premium tax credits up to \$693.00 per month as well as cost sharing reductions as long as you enrolled in a Silver level health plan effective November 1, 2016.

On November 28, 2016, you updated your application for financial assistance.

On November 29, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to enroll in the Essential Plan, effective January 1, 2017. The notice stated the household income listed in your application was \$27,868.00.

Also on November 29, 2016, NYSOH issue a notice of enrollment confirmation, based on your plan selection on November 28, 2016, stating that you and your spouse were enrolled in an Essential Plan effective January 1, 2017.

On December 2, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan effective October 31, 2016.

On March 20, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to April 3, 2017, to allow you time to submit supporting documents showing your e-mail to your Broker confirming your submission of your income documentation.

On March 20, 2017, NYSOH's Appeals Unit received your supporting documentation in the form of a 2-page fax and has been incorporated into the record as Appellant's Exhibit 1.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified that you expect to file your 2016 taxes with a tax filing status of married filing jointly. You will claim no dependents on that tax return.
- 2) You are seeking insurance for yourself and your spouse.
- 3) The application that was submitted on July 6, 2016, which requested financial assistance, listed annual household income of \$27,868.00. You testified that this amount was correct.
- 4) Your application states that you will not be taking any deductions on your 2016 tax return.
- 5) You testified that you were aware you needed to provide income documentation before October 3, 2016.
- 6) You testified that you provided your income documentation to your Broker so that she could provide it to NYSOH on September 8, 2016.
- 7) You provided a copy of an e-mail you sent to your Broker on September 8, 2016 with an attachment of a copy of your 2015 tax return (See Appellant's Exhibit 1, pg. 2).
- 8) Your NYSOH account indicates that on October 10, 2016 your application was run and you were found no longer eligible for the Essential Plan as of October 31, 2016.
- 9) You testified that you are seeking reinstatement of your and your spouse's Essential Plan for the months of November, and December, 2016.

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

Applicable Law and Regulations

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

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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).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2016 FPL, which is \$16,020.00 for a two-person household (81 Fed. Reg. 4036).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

The Essential Plan is considered minimum essential coverage therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

Verification of Eligibility for the Essential Plan

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

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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 only issue under review is whether NYSOH properly determined that you 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 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 July 6, 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 October 3, 2016.

The record reflects that NYSOH did not receive the requested income documentation before the deadline.

As a result, NYSOH issued a disenrollment notice on October 11, 2016 stating that you 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.

However, you credibly testified that you were aware you needed to provide income documentation before October 3, 2016. You then provided your income documentation on September 8, 2016 to your Broker so that she could forward it on your behalf to NYSOH.

After your telephone hearing, you provide the NYSOH Appeals Unit a copy of an e-mail you sent to your Broker on September 8, 2016 with an attachment of a

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copy of your 2015 tax return (See Appellant's Exhibit 1, pg. 2). This information did not reach NYSOH for purposes of confirming your income in your application.

Therefore, it is concluded that had your Broker properly forwarded the information to NYSOH on your behalf, your income documentation could have been reviewed, and your eligibility redetermined to avoid any gap in coverage.

Since your failure to provide income documentation by the requested deadline of October 3, 2016 was not due to any inaction on your part, the October 11, 2016 disenrollment notice stating that you and your spouse are no longer eligible for the Essential Plan effective October 31, 2016 because you failed to submit required income documentation is **RESCINDED**. The October 12, 2016 eligibility determination notice stating you and your spouse were eligible for APTC and cost-sharing reductions, effective November 1, 2016 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 through December 31, 2016.

Decision

The October 11, 2016 notice of disenrollment is **RESCINDED**.

The October 12, 2016 eligibility determination notice 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 through December 31, 2016.

Effective Date of this Decision: April 04, 2017

How this Decision Affects Your Eligibility

Your Broker erred in not forwarding your income documentation to NYSOH after receiving it.

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 through December 31, 2016.

If You Disagree with this Decision (Appeal Rights)

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 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 Have Questions about this Decision (Customer Service Resources):

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- 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

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Summary

The October 11, 2016 notice of disenrollment is RESCINDED.

The October 12, 2016 eligibility determination notice 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 through December 31, 2016.

Your Broker erred in not forwarding your income documentation to NYSOH after receiving it.

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 through December 31, 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&etumi ama wo obi a okyerε 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.

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