



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

Notice of Decision

Decision Date: April 06, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013847

[REDACTED]

Mr. [REDACTED],

On March 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 6, 2016 disenrollment and October 10, 2016 eligibility determination 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 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: April 06, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013847

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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 spouse's eligibility for the Essential Plan ended effective October 31, 2016?

Procedural History

On November 22, 2015, NYSOH issued a notice of eligibility determination stating that your spouse was eligible to enroll in the Essential Plan, effective January 1, 2016.

On November 25, 2015, NYSOH issued an enrollment notice confirming her enrollment in an Essential Plan, effective January 1, 2016.

On April 7, 2016, NYSOH issued a notice, based on your spouse's April 6, 2016 updated plan selection, confirming her enrollment in an Essential Plan, effective May 1, 2016.

On June 22, 2016, NYSOH issued an eligibility redetermination notice, based on a system update conducted on June 21, 2016, stating in part that your spouse was eligible to enroll in the Essential Plan, effective August 1, 2016. The notice further directed her to provide documentation confirming her income before September 19, 2016.

Also on June 22, 2016, NYSOH issued an enrollment notice confirming in part your spouse's enrollment in an Essential Plan, effective May 1, 2016.

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On October 6, 2016, NYSOH issued a disenrollment notice stating that your spouse's enrollment in the Essential Plan would end as of October 31, 2016, because she was no longer eligible to remain in her plan.

On October 10, 2016, NYSOH issued an eligibility redetermination notice stating that, effective November 1, 2016, your spouse was newly conditionally eligible to purchase a qualified health plan at full cost. The notice stated that your spouse was not eligible to enroll in the Essential Plan because NYSOH was unable to verify your spouse's citizenship status.

On November 15, 2016, November 24, 2016, November 29, 2016 and November 30, 2016, NYSOH issued eligibility redetermination notices, based on your November 14, 2016 updated application, stating that more information was needed to determine your spouse's eligibility. The notices also stated that you must provide your spouse's proof of income by November 29, 2016, December 8, 2016, December 13, 2016 and December 14, 2016, respectively.

On November 14, 2016, November 23, 2016, and December 6, 2016, you submitted proof of your spouse's income (see Documents [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]).

On December 6, 2016, you updated your application for financial assistance. That day, a preliminary eligibility redetermination was prepared finding your spouse was eligible to enroll in the Essential Plan, effective January 1, 2017, and you selected a plan for her enrollment.

Also on December 6, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your spouse's Essential Plan for the months of November 2016 and December 2016.

On December 7, 2016, NYSOH issued an eligibility redetermination notice, based on your December 6, 2016 updated application, stating that your spouse was eligible to enroll in the Essential Plan, effective January 1, 2017.

Also on December 7, 2016, NYSOH issue an enrollment notice, based on your plan selection on December 6, 2016, confirming your spouse's enrollment in an Essential Plan effective January 1, 2017.

On December 14, 2016, you submitted proof of your spouse's citizenship.

On March 27, 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 NYSOH account confirms, that at all time relevant, you received all your spouse's notices from NYSOH by electronic mail.
- 2) You testified that you did not receive any electronic alerts notifying you of any notice in your NYSOH account stating that your spouse's eligibility was only conditional and that you needed to provide documentation of her income. You also did not receive any electronic alerts that your spouse's coverage had been terminated.
- 3) You testified that you did not know that you needed to submit documentation until you found out that your spouse had no insurance coverage in November 2016, which prompted you to call NYSOH.
- 4) According to your NYSOH account, on June 21, 2016, your spouse's eligibility was redetermined by a system rerun and a notice was sent out requesting proof of income documentation by September 19, 2016.
- 5) Your NYSOH account indicates that, on October 5, 2016, your application was run and your spouse was found no longer eligible for the Essential Plan as of October 31, 2016, because NYSOH could not verify her citizenship status.
- 6) According to your NYSOH account, you updated your spouse's account on November 14, 2016 and your spouse's eligibility was pending proof of income. Your spouse was found fully eligible for the Essential Plan on December 6, 2016, effective January 1, 2017.
- 7) On December 14, 2016, you submitted proof of your spouse's citizenship (I-551 Permanent Resident Card), which shows that your spouse has been a permanent resident since October 20, 2006.
- 8) You testified that you are seeking reinstatement of your spouse's Essential Plan for the months of November 2016 and December 2016. Although your spouse has no medical bills, you are concerned with the IRS tax penalty.

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 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

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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)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your spouse's eligibility for the Essential Plan ended effective October 31, 2016.

The Essential Plan is provided through NYSOH to individuals who are US citizens or are lawfully present non-citizens and who attest to an income that is between 138% and 200% of the FPL. For individuals seeking enrollment in the Essential Plan, NYSOH must request information from federal data sources to verify an individual's citizenship status and income attestation.

If NYSOH cannot verify an individual's citizenship status or income 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 June 22, 2016, you were advised that your spouse was eligible for the Essential Plan for a limited time, and that you needed to confirm her household's income before September 19, 2016. There was no request for proof of your spouse's citizenship status in any of the notices.

On October 6, 2016 and October 10, 2016, NYSOH issued two notices stating that your spouse was terminated from her Essential Plan effective October 31, 2016 and that she was no longer eligible for insurance because NYSOH could not verify her citizenship status.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive any electronic alert regarding the notice that directed you to provide

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income information for your spouse's eligibility to be confirmed. Further, there was no notice issued regarding your spouse's citizenship status. Finally, there is no evidence in your account showing that any email alerts were sent to you regarding the need to provide proof of income, that any such electronic notice failed, or that the notice was later sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit income documentation or that of your spouse's citizenship status to confirm her eligibility for the Essential Plan.

Since neither you nor your spouse were made aware of and did not receive proper notice that there was an inconsistency in your spouse's NYSOH account, the October 6, 2016 disenrollment and October 10, 2016 eligibility redetermination notices, stating that your spouse was no longer eligible for the Essential Plan are RESCINDED.

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

Decision

The October 6, 2016 disenrollment notice is RESCINDED.

The October 10, 2016 eligibility redetermination notice is RESCINDED.

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

Effective Date of this Decision: April 06, 2017

How this Decision Affects Your Eligibility

NYSOH erred in terminating your spouse's Essential Plan effective October 31, 2016, without giving proper notice.

Your case is being sent back to NYSOH to reinstate your spouse's coverage in her Essential Plan as of November 1, 2016.

If applicable, you will be responsible to pay directly to the health plan the monthly premiums owed for the months of November 2016 and December 2016 for coverage to resume those months.

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 Disagree with this Decision (Appeal Rights)

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 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

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- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The October 6, 2016 disenrollment notice is RESCINDED.

The October 10, 2016 eligibility redetermination notice is RESCINDED.

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

NYSOH erred in terminating your spouse's Essential Plan effective October 31, 2016, without giving proper notice.

Your case is being sent back to NYSOH to reinstate your spouse's coverage in her Essential Plan as of November 1, 2016.

If applicable, you will be responsible to pay directly to the health plan the monthly premiums owed for the months of November 2016 and December 2016 for coverage to resume those months.

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 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.

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