



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

## Notice of Decision

Decision Date: April 12, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014054

[REDACTED]

Dear [REDACTED],

On March 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 2, 2016 eligibility determination notice and December 16, 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 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 12, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014054

[REDACTED]

## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NYSOH properly determine that you were ineligible to enroll in health coverage through NYSOH because you were not a New York State resident?

Did NY State of Health (NYSOH) properly determine that you were enrolled in an Essential Plan no earlier than January 1, 2017?

## Procedural History

Under [REDACTED]:

On September 6, 2016, NYSOH issued a renewal notice stating that it was time to renew your coverage since your Medicaid coverage through [REDACTED] Department of Social Services would end effective November 30, 2016. The notice stated that you needed to update your NYSOH account between October 16, 2016 and November 15, 2016 to determine your eligibility beginning December 1, 2016. This document was returned to NYSOH on September 19, 2016 as undeliverable, and uploaded by NYSOH to account [REDACTED].

On December 2, 2016, NYSOH issued a notice confirming your request to change your mailing address to: [REDACTED]  
[REDACTED]"

On December 15, 2016, your account under [REDACTED] was closed.

Under [REDACTED]:

On September 6, 2016, NYSOH issued a renewal notice stating that it was time to renew your coverage since your Medicaid coverage through [REDACTED] Department of Social Services would end effective November 30, 2016. The notice stated that you needed to update your NYSOH account between October 16, 2016 and November 15, 2016 to determine your eligibility beginning December 1, 2016. This document was returned to NYSOH on September 19, 2016 as undeliverable, and uploaded by NYSOH to [REDACTED].

On November 14, 2016, NYSOH received an update to the application in which you first sought health insurance through NYSOH.

On November 15, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in an Essential Plan for a limited time, pending receipt of documents confirming your citizenship status, which were due by February 12, 2017. This notice advised you to select a health plan since your current coverage would end on October 31, 2016. This eligibility determination was effective December 1, 2016.

On December 1, 2016, NYSOH issued a notice confirming your request to change your mailing address to: [REDACTED]. This document was returned to NYSOH on December 14, 2016 as undeliverable, and uploaded to [REDACTED] by NYSOH on February 3, 2017.

On December 2, 2016, NYSOH issued an eligibility redetermination notice stating that you were no longer eligible for coverage under the Essential Plan as of January 1, 2017 because NYSOH was not able to verify your citizenship status and/or you were not a New York State resident.

On December 2, 2016, NYSOH issued a disenrollment notice stating that your Essential Plan coverage would end on January 1, 2017 because you were no longer eligible to enroll in health insurance through NYSOH. This notice was sent to you at [REDACTED]. This document was returned to NYSOH as undeliverable on December 30, 2016.

Also on December 2, 2016, NYSOH issued a notice confirming your request to change your mailing address to: [REDACTED].

On December 15, 2016, NYSOH received two additional updates to your application for health insurance. In response to your final update, NYSOH

prepared a preliminary eligibility determination stating that you were eligible for the Essential Plan for a limited time, effective January 1, 2017, pending the receipt of additional documentation to confirm the information you provided in your application was accurate.

Also on December 15, 2016, you spoke to NYSOH's Account Review Unit and appealed that your Essential Plan coverage could begin no earlier than January 1, 2017, and that you had been found not eligible to enroll in a plan through NYSOH due to your citizenship status and/or you were not a New York State resident.

On December 16, 2016, NYSOH issued an eligibility determination, based on the last application revision received on December 15, 2016. The notice stated that you were eligible to enroll in an Essential Plan for a limited time, pending receipt of documents confirming your citizenship status by March 15, 2017.

Also on December 16, 2016, NYSOH issued an enrollment confirmation notice stating that your Essential Plan coverage would begin effective January 1, 2017.

On January 11, 2017, NYSOH received a Certificate of Naturalization ( [REDACTED] ) issued to you on January 13, 2016.

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 support the following findings of fact:

- 1) You testified that you were covered under a Medicaid plan through [REDACTED] Department of Social Services until November 30, 2016.
- 2) You testified, and your account reflects, that you updated your account under [REDACTED] on November 14, 2016 to enroll in a plan beginning December 1, 2016. You were found eligible to enroll in an Essential Plan for a limited time, effective December 1, 2016.
- 3) You testified that on November 14, 2016, you spoke with a NYSOH representative to select an Essential Plan for your coverage beginning December 1, 2016; however, you were told you could not select a plan since the NYSOH plan selection feature was not functioning properly at that time.

- 4) The record reflects that you had two accounts through NYSOH open until December 15, 2016, when NYSOH closed [REDACTED]. You testified that the fact that you had two accounts open at that time may have prevented your enrollment in an Essential Plan on November 14, 2016.
- 5) You were ultimately permitted to enroll in an Essential Plan on December 15, 2016, with coverage becoming effective January 1, 2017.
- 6) A notice that was issued to you at [REDACTED] was returned to NYSOH as undeliverable.
- 7) On December 2, 2016, NYSOH issued a notice stating that you were no longer eligible to remain enrolled in a plan through NYSOH since you were not a resident of New York State.
- 8) You testified that you never resided in [REDACTED], and do not know where NYSOH received that information.
- 9) On December 2, 2016, you updated your address from [REDACTED] to [REDACTED].
- 10) On January 11, 2017, you provided to NYSOH a Certificate of Naturalization ([REDACTED]) issued to you on January 13, 2016.
- 11) You testified that you were seeking for your Essential Plan coverage to begin effective December 1, 2016, rather than January 1, 2017, since you incurred significant medical expenses during the month of December 2016 for which you are not covered under a health insurance plan.

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 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

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§ 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

### Essential Plan - Citizenship and Immigration Status

To enroll in the Essential Plan through NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in the United States (42 CFR § 600.305(a)(5)).

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)).

NYSOH must verify or obtain information to determine that an applicant is eligible for enrollment in the Essential Plan. If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5-day period (42 CFR § 600.345, 45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

### 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)).

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## Legal Analysis

The first issue under review is whether NYSOH properly found you were no longer eligible for coverage through NYSOH because you were not a New York State resident, effective January 1, 2017.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that their residency status is satisfactory.

You testified that you moved your residence from [REDACTED] to [REDACTED]. The record reflects that this change was reflected in your account on or about December 1, 2016.

The record also reflects that a notice was issued by NYSOH to you at [REDACTED]. This notice was subsequently returned to NYSOH as undeliverable. You testified that you have never resided in [REDACTED], and are not aware of how NYSOH came by this information.

Since you credibly testified that you did not provide this out-of-state address to NYSOH, and your account does not contain any information on how this address was acquired, we find that you did not move out of New York State. Indeed, the sole address change listed in your account that you provided appears to be [REDACTED] to [REDACTED].

Therefore, the December 2, 2016 eligibility determination notice stating that you were not eligible for the Essential Plan because NYSOH could not confirm that you were a New York State resident was issued in error, and must be RESCINDED.

The second issue under review is whether NYSOH properly determined that you were enrolled in an Essential Plan no earlier than January 1, 2017.

You testified, and the record indicates, that you submitted your NYSOH application on November 14, 2016. Thus, you were found eligible for the Essential Plan as of November 14, 2016. However, you testified that you were not able to select a plan on that date since NYSOH representatives indicated that the plan enrollment system was down.

We also note that, at the time you updated your account under [REDACTED], you were an account holder under [REDACTED]. The record reflects that your account under [REDACTED] was closed on December 15, 2016, as it may have caused you to be unable to select an Essential Plan at that time.



While you ultimately selected an Essential Plan on December 15, 2016, this caused your enrollment to begin effective January 1, 2017. We find there is sufficient evidence that you were improperly prevented from selecting an Essential Plan upon becoming eligible to do so on November 14, 2016.

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.

Accordingly, since we may reasonably infer that you would have selected an Essential Plan as of November 14, 2016, if permitted, your Essential Plan coverage should have begun effective December 1, 2016.

Therefore, NYSOH's December 16, 2016 enrollment confirmation notice is MODIFIED to stated that your Essential Plan coverage began effective December 1, 2016.

Your case is RETURNED to NYSOH to effectuate the change in Essential Plan coverage start date noted above.

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

## **Decision**

The December 2, 2016 eligibility determination notice is RESCINDED.

The December 16, 2016 enrollment confirmation notice is MODIFIED to stated that your Essential Plan coverage began effective December 1, 2016.

Your case is RETURNED to NYSOH to effectuate the change in Essential Plan coverage start date noted above.

**Effective Date of this Decision:** April 12, 2017

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

Your Essential Plan coverage begins effective December 1, 2016.

Please note, however, that you will be responsible for the premium, if any, due for your Essential Plan coverage during the month of December 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):**

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 December 2, 2016 eligibility determination notice is RESCINDED.

The December 16, 2016 enrollment confirmation notice is MODIFIED to stated that your Essential Plan coverage began effective December 1, 2016.

Your case is RETURNED to NYSOH to effectuate the change in Essential Plan coverage start date noted above.

Your Essential Plan coverage begins effective December 1, 2016.

Please note, however, that you will be responsible for the premium, if any, due for 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。我们可以为您免费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. yeb&tumi ama wo obi a okyer& 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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