



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

## Notice of Decision

Decision Date: April 19, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014101

[REDACTED]

Dear [REDACTED],

On March 29, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 5, 2016 eligibility determination, November 5, 2016 disenrollment notice, and December 3, 2016 enrollment confirmation 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 19, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014101

[REDACTED]

## Issues

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

Did NY State of Health properly determine that you and your spouse were disenrolled from your Essential Plans, effective November 30, 2016?

Did NY State of Health properly determine that your and your spouse's reenrollment in the Essential Plan was effective January 1, 2017?

## Procedural History

On December 16, 2015, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to enroll in the Essential Plan, effective January 1, 2016.

On December 19, 2015, NYSOH issued a notice of enrollment, based on your plan selection on December 16, 2015, stating that you and your spouse were enrolled in the Essential Plan, and that your plan would start January 1, 2016.

On October 20, 2016, NYSOH issued a notice that it was time to renew your and your spouse's health insurance for the upcoming coverage year. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether you and your spouse would qualify for financial help paying for your health coverage, and that you needed to update your account between November 16, 2016 and December 15, 2016 or you might lose the financial assistance you were currently receiving.

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On November 4, 2016, you updated your household's application for financial assistance.

On November 5, 2016, NYSOH issued a notice of eligibility determination, based on your November 4, 2016 application, stating that you and your spouse were eligible for advanced payments of the premium tax credit (APTC) of up to \$347.00 per month, effective December 1, 2016. This notice also stated that you and your spouse were not eligible for the Essential Plan because the income you submitted was above \$31,860.00.

Also on November 5, 2016, NYSOH issue a disenrollment notice stating that your and your spouse's enrollment in your Essential Plan would end effective November 30, 2016, because you and your spouse were no longer eligible to remain enrolled in your current health insurance.

On November 5, 2016, you updated your household's application for financial assistance.

On November 6, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible for the Essential Plan, effective January 1, 2017.

On December 3, 2016, NYSOH issued a notice of enrollment, based on your plan selection on December 2, 2016, stating that you and your spouse were enrolled in an Essential Plan, and that your and your spouse's plans would start January 1, 2017.

On December 16, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your and your spouse's enrollment in the Essential Plan insofar as it did not begin December 1, 2016.

On March 29, 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 that your username to access your NYSOH account is [REDACTED]
- 2) On November 4, 2016 your NYSOH account was updated by user [REDACTED], and an application was submitted to NYSOH. No year preference was selected.

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- 3) On November 5, 2016, your NYSOH application was updated and submitted three times. The year preference selected on each of these applications was 2017.
- 4) You testified that you became aware that you and your spouse had been disenrolled from your Essential Plan, when, on December 2, 2016, you contacted your plan to make a payment and were advised that you and your spouse had no coverage.
- 5) You testified that when you updated your application on November 4, 2016, this was based on an estimate of your annual income, but when you updated your application on November 5, 2016, this was based on your previous year's tax return.
- 6) The application that you submitted on November 4, 2016 listed annual household income of \$52,565.37.
- 7) The final application that you submitted on November 5, 2016 listed annual household income of \$31,878.00.
- 8) You testified, and the record reflects, that you reenrolled in an Essential Plan on December 2, 2016.
- 9) You testified that you receive notices via regular mail and electronic mail from NYSOH, however, your NYSOH account reflects that you have elected to receive notices from NYSOH via regular mail.
- 10) No notices sent to the address on your NYSOH account have been returned as undeliverable.
- 11) You testified that you did not receive the October 20, 2016 renewal notice advising you that you needed to update your household's application for financial assistance between November 15, 2016 and December 15, 2016. You further testified that you did not receive the November 5, 2016 disenrollment notice advising you that you and your spouse were disenrolled from the Essential Plan as of November 30, 2016. You also stated that you did not receive the November 6, 2016 eligibility determination notice advising you that you and your spouse were eligible for the Essential Plan and that you needed to select a plan for enrollment.
- 12) During the hearing you gave permission for the Hearing Officer to listen to recordings of phone calls between yourself and NYSOH.
- 13) A review of the phone recordings reveals that on December 2, 2016 you placed a phone call to NYSOH. During that phone call, you advised the

NYSOH representative that you would like to enroll you and your spouse in a United Healthcare Essential Plan. The NYSOH representative processed this enrollment for you, advised you that this coverage would begin on January 1, 2017, and provided you with an ET number for yourself and your spouse associated with the coverage beginning January 1, 2017.

14) You testified that on December 7, 2016 you contacted NYSOH and were provided with ET numbers for yourself and your spouse for your coverage for December 2016.

15) A review of the phone recordings reveals that on December 7, 2016 you placed a phone call to NYSOH. During that phone call the NYSOH representative advised you that NYSOH was still showing coverage at that time, but that the only ET numbers available were for your and your spouse's 2017 coverage. The NYSOH representative then provided ET numbers for yourself and your spouse related to 2016 coverage, however, these were not specified as being related to your and your spouse's December 2016 coverage.

16) You testified that you wanted you and your spouse's reenrollment in an Essential Plan to begin on December 1, 2016, because your spouse has medical bills from 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 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

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CFR § 155.300(a)). On the date of your application, that was the 2015 FPL, which is \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

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)).

### 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)).

### Essential Plan: Renewal

New York State has elected to adopt the Medicaid policy regarding continuous enrollment throughout the year (42 CFR § 600.320(d); New York's Basic Health Plan Blueprint, pp. 8 and 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

This means that an individual may apply and enroll for coverage at any point in time throughout the year, including outside the open enrollment period and without needing a special enrollment period (NY Social Services Law § 369-gg(4)(d)).

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New York State has also elected to redetermine Essential Plan enrollees every 12 months from the effective date of eligibility as long as enrollees are under age 65, are not enrolled in minimum essential coverage, and remain state residents. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12-month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or changes in circumstances (42 CFR § 600.340(f); NY Social Services Law § 369-gg(3) and (4)(d)). Enrollees are required to report changes in circumstances within 30 days, which NYSOH will assess and act upon accordingly (New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (42 CFR § 600.340(e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (42 CFR § 600.345; (NY Social Services Law § 369-gg(4)(c); 45 CFR § 155.335(g); New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

### Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15<sup>th</sup> of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of advance payments of the premium tax credit (APTC) for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).



## Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your spouse were disenrolled from your Essential Plan, effective November 30, 2016.

On December 15, 2016, you submitted an application for your household financial assistance. As a result of this application, you and your spouse were found eligible for the Essential Plan as of January 1, 2016 and you and your spouse were enrolled into a plan.

New York State has elected to redetermine Essential Plan enrollees only every 12 months from the effective date of eligibility as long as enrollees are under age 65, are not enrolled in minimum essential coverage, remain state residents. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12-month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or changes in circumstances.

Since you and your spouse were found eligible for and enrolled in the Essential Plan as of January 1, 2016, your coverage should have continued for 12 months; that is, until December 31, 2016, barring any of the disqualifying events stated above.

On November 4, 2016 you updated your household's application for financial assistance with health insurance. Specifically, you updated your annual household income to \$52,565.37.

As a result of this update, you and your spouse were found eligible for up to \$347.00 per month in APTC, effective December 1, 2016, and found ineligible for the Essential Plan as your household income exceeded \$31,860.00.

The increase in your annual household income listed in the November 4, 2016 application represents a change in circumstances, therefore, NYSOH properly redetermined your and your spouse's eligibility for financial assistance with health insurance.

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change. As you changed the income information in your application on November 4, 2016; NYSOH properly found you and your spouse ineligible for and disenrolled from your Essential Plans, effective November 30, 2016.

Therefore, the November 5, 2016 eligibility determination notice and November 5, 2016 disenrollment notice are AFFIRMED.

The second issue is whether NYSOH properly determined that you and your spouse's enrollment in the Essential Plan was effective January 1, 2017.

You testified, and the record indicates, that you updated your NYSOH application on November 5, 2016. As a result, you and your spouse were found eligible for the Essential Plan as of January 1, 2017.

You testified that you did not receive the November 6, 2016 eligibility determination stating that you and your spouse were eligible for the Essential Plan and directing you to pick a plan for enrollment. However, 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, the record reflects that NYSOH properly notified you of your and your spouse's eligibility redetermination on November 5, 2016 and that you and your spouse would need to select a 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.

Had you selected an Essential Plan for enrollment on November 5, 2016, your and your spouse's enrollment would have taken effect on the first day of the first month following November 2016; that is, on December 2016.

However, the record reflects that you selected an Essential Plan for yourself and your spouse on December 2, 2016, so your and your spouse's enrollment properly took effect on the first day of the first month following December 2016; that is, on January 1, 2017.

Therefore, the December 3, 2016 enrollment confirmation notice stating that you and your spouse's enrollment in the Essential Plan was effective January 1, 2017, is correct and must be AFFIRMED.

## **Decision**

The November 5, 2016 eligibility determination notice is AFFIRMED.

The November 5, 2016 disenrollment notice is AFFIRMED.

The December 3, 2016 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** April 19, 2017

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

This decision does not change your and your spouse's eligibility.

You and your spouse were properly disenrolled from your Essential Plans as of November 30, 2016.

The effective date of your and your spouse's Essential Health Plan is January 1, 2017.

## **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

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

### **Summary**

The November 5, 2016 eligibility determination notice is AFFIRMED.

The November 5, 2016 disenrollment notice is AFFIRMED.

You and your spouse were properly disenrolled from your Essential Plans as of November 30, 2016.

The December 3, 2016 enrollment confirmation notice is AFFIRMED.

The effective date of your and your spouse's Essential Health Plan is January 1, 2017.

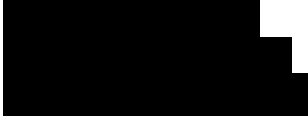
This decision does not change your and your spouse's eligibility.

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## **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 bεtumi 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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