



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

**Notice of Decision**

Decision Date: April 7, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014416

[REDACTED]

Dear [REDACTED],

On March 3, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health’s December 22, 2016 eligibility determination notice and December 24, 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: April 7, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014416

[REDACTED]

## 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 enrollment in an Essential Plan was effective February 1, 2017?

## Procedural History

On November 28, 2016, you submitted an application for financial assistance to NYSOH. Information in your account indicated that your spouse was enrolled in active Medicare coverage beginning on April 1, 2014.

On November 29, 2016, NYSOH issued an eligibility determination notice stating that your spouse was newly conditionally eligible to purchase a qualified health plan at full cost, effective January 1, 2017. Your spouse was not eligible for financial assistance because she did not meet the eligibility standards for such programs and income documentation was missing. The notice stated that NYSOH needed more information to confirm the information in your application. Your spouse was required to "provide proof of Termination of Medicare Part A or Part B" coverage by January 12, 2017.

On December 6, 2016, you updated your NYSOH account including uploading a letter from the Centers for Medicaid and Medicare Services, stating that your spouse was enrolled in Medicare Part A coverage effective April 1, 2014 and not enrolled in Medicare Part B coverage.

On December 7, 2016, NYSOH issued a notice redetermining your spouse's eligibility stating that she was conditionally eligible to enroll in a qualified health

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plan at full cost, effective January 1, 2017. The notice stated that your spouse was required to provide proof of termination of Medicare Part A or Part B by January 12, 2017. The notice stated that your spouse was not eligible to receive advance premium tax credits to help pay the cost of insurance because based on information from state and federal data sources, NYSOH determined that your spouse was already enrolled in or eligible for a public insurance program such as Medicare.

On December 14, 2016, you updated your NYSOH account.

On December 15, 2016, NYSOH issued an eligibility determination stating that your spouse was conditionally eligible to enroll in a qualified health plan at full cost, effective January 1, 2017. The notice stated that your spouse was required to provide proof of termination of Medicare Part A or Part B coverage by January 12, 2017. The notice stated that your spouse was not eligible to receive advance premium tax credits to help pay the cost of insurance because based on information from state and federal data sources, NYSOH determined that your spouse was already enrolled in or eligible for a public insurance program such as Medicare.

On December 21, 2016, NYSOH records reflect that the letter from the Centers for Medicaid and Medicare Services, stating that your spouse was enrolled in Medicare Part A coverage effective April 1, 2014 and not enrolled in Medicare Part B coverage, had been verified.

Also on December 21, 2016, NYSOH records reflect that a system redetermination of your spouse's eligibility occurred.

On December 22, 2016, NYSOH issued a notice of eligibility determination stating that your spouse was eligible to enroll in an Essential Plan, effective February 1, 2017.

On December 24, 2016, NYSOH issued a notice of enrollment, based on your plan selection on December 23, 2016, stating that your spouse was enrolled in an Essential Plan, and that the plan would start February 1, 2017.

On December 29, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your spouse's enrollment in an Essential Plan insofar as it did not begin January 1, 2017.

On March 3, 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 spouse is currently enrolled in Medicare Part A coverage. You testified that she is not enrolled in Medicare Part B coverage.
- 2) Your NYSOH application dated November 28, 2016 states that your spouse has been enrolled in active Medicare coverage since April 1, 2014.
- 3) You testified that you are not appealing your spouse's eligibility for the Essential Plan, only the start date.
- 4) On December 6, 2016, you uploaded a letter from the Centers for Medicaid and Medicare Services, stating that your spouse was enrolled in Medicare Part A coverage effective April 1, 2014 and not enrolled in Medicare Part B coverage ( [REDACTED] ).
- 5) NYSOH records reflect that the letter from the Centers for Medicaid and Medicare Services, ( [REDACTED] ) was verified on December 21, 2016.
- 6) NYSOH records reflect that your spouse became eligible for the Essential Plan on December 21, 2016.
- 7) NYSOH records reflects that you enrolled your spouse in an Essential Plan on December 23, 2016.
- 8) You testified that you wanted your spouse's enrollment in an Essential Plan to begin on January 1, 2017 because your spouse incurred prescription medication costs during January 2017 and your spouse was concerned about a tax penalty due to a lack of coverage.

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

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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).

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 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)).

### 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

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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)).

#### Verification of Minimum Essential Coverage

NYSOH must verify whether an applicant is eligible for minimum essential coverage other than through an eligible employer-sponsored plan, Medicaid, CHIP, or the BHP, using information obtained by transmitting identifying information specified by HHS to HHS for verification purposes (45 CFR § 155.330(b)).

Minimum essential coverage includes most government-sponsored insurance plans such as Medicaid, Medicare, CHIP, Tricare, Veterans' Health Coverage, and eligible employer-sponsored insurance (26 USC § 5000A(f)).

Minimum essential coverage includes coverage under the Medicare program under part A (26 USC § 5000A(f)(1)(A)(i)).

### **Legal Analysis**

The issue is whether NYSOH properly determined that your spouse's enrollment in an Essential Plan was not effective until February 1, 2017.

Your NYSOH account as of your November 28, 2016 application stated that your spouse was enrolled in active Medicare coverage beginning on April 1, 2014. On November 29, 2016, NYSOH requested proof of your spouse's termination of Medicare Part A or Part B coverage to confirm the information in your application, and your spouse was found conditionally eligible to enroll in a qualified health plan at full cost.

NYSOH is required to verify whether an applicant is eligible for minimal essential coverage including Medicare.

You testified, and NYSOH records reflect that on December 6, 2016, you uploaded a letter from the Centers for Medicaid and Medicare Services, stating

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that your spouse was enrolled in Medicare Part A coverage effective April 1, 2014 and not enrolled in Medicare Part B coverage. NYSOH records reflect that the letter from the Centers for Medicaid and Medicare Services was verified on December 21, 2016.

Because the proof of Medicare coverage you provided was verified on December 21, 2016, NYSOH found your spouse's eligibility for the Essential Plan was not effective until February 1, 2017. NYSOH records reflect that you enrolled your spouse on December 23, 2016, which resulted in her Essential Plan coverage beginning effective February 1, 2017.

Since NYSOH records reflect that you timely provided the proof of Medicare coverage documentation prior to the deadline set by NYSOH, your spouse's eligibility should have been determined as of December 6, 2016, when it was provided to NYSOH, rather than on December 21, 2016, when it was ultimately reviewed and verified by a NYSOH representative.

Therefore, your case is being RETURNED to NYSOH to redetermine your spouse's eligibility as of December 6, 2016.

## **Decision**

The December 22, 2016 eligibility determination and December 24, 2016 enrollment confirmation notices are RESCINDED and your spouse's case is being RETURNED to NYSOH for a redetermination of her eligibility as of December 6, 2016.

**Effective Date of this Decision:** April 7, 2017

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

Your spouse's case is being RETURNED for a redetermination of her eligibility.

## **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

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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

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## **Summary**

The December 22, 2016 eligibility determination and December 24, 2016 enrollment confirmation notices are RESCINDED and your spouse's case is being RETURNED to NYSOH for a redetermination of her eligibility as of December 6, 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 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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