



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

Notice of Decision

Decision Date: May 25, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014659

[REDACTED]

Dear [REDACTED]

On April 7, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 15, 2016 eligibility determination notices and December 15, 2016 disenrollment 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: May 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014659



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 you and your spouse's eligibility for and enrollment in the Essential Plan ended effective December 31, 2016?

Procedural History

On September 10, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to enroll in an Essential Plan for a limited time, effective October 1, 2016. The notice directed you to provide documentation confirming you and your spouse's income and your spouse's citizenship status before December 8, 2016. The notice stated that if you missed the due date, you might lose your insurance or receive less help paying for your coverage.

Also on September 10, 2016, NYSOH issued a notice confirming your and your spouse's enrollment in an Essential Plan, effective October 1, 2016.

No documentation was received by December 8, 2016.

On December 15, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost. The notice stated that you were not eligible to enroll in an Essential Plan because NYSOH did not receive the income documentation needed to verify the income listed in your application within the required timeframe. This eligibility was effective January 1, 2017.

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Also on December 15, 2016, NYSOH issued an eligibility determination notice stating that your spouse was no longer eligible for health insurance through NYSOH because she did not provide income information or documentation regarding her citizenship status. This eligibility was effective January 1, 2017.

Also, on December 15, 2016, NYSOH issued a disenrollment notice stating that you and your spouse's enrollment in the Essential Plan would end as of December 31, 2016, because you both were no longer eligible to remain in your plan.

On December 23, 2016, you updated your application for financial assistance.

On December 24, 2016, NYSOH issued an eligibility determination stating that you and your spouse were eligible for enrollment in an Essential Plan, effective February 1, 2017.

Also on December 24, 2016, NYSOH issued a notice of enrollment confirmation, based on your plan selection on December 23, 2016, stating that you and your spouse were enrolled in an Essential Plan, effective February 1, 2017.

On January 5, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of you and your spouse's Essential Plan for the month of January 2017.

On April 7, 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 you began suffering from neurological problems in August 2016 resulting in you being hospitalized for much of September 2016. You testified you had two [REDACTED] procedures in October 2016. You testified that you were hospitalized for approximately [REDACTED] in November 2016 and underwent a [REDACTED] during that month.
- 2) You testified, and your NYSOH account confirms, that you receive all notices from NYSOH by electronic mail.
- 3) You testified that you did receive electronic alerts notifying you of notices in your NYSOH account during the months you were ill.

- 4) You testified that you did not check the notices in your NYSOH account because you were ill.
- 5) You testified that you did not ask your spouse to review the notices in your NYSOH account after receiving email alerts.
- 6) You testified that you did not recall if you reviewed the notice in your NYSOH account directing that you provide documentation confirming you and your spouse's income and your spouse's citizenship status before December 8, 2016.
- 7) You testified that you did not review the notices in your NYSOH account until sometime in December 2016.
- 8) Your NYSOH account indicates that on December 14, 2016 your eligibility was redetermined and you and your spouse were found no longer eligible for the Essential Plan as of January 1, 2017.
- 9) You testified that you contacted NYSOH in December 2016 and were advised that you and your spouse did not have insurance coverage during January 2017 because you failed to provide requested documentation.
- 10) You updated the income information in your NYSOH account on December 23, 2016 and selected a plan for you and your spouse on that date.
- 11) You uploaded two letters from your physicians on January 18, 2017 which listed the medical issues and tests that you had undergone.
- 12) You testified that you have medical bills which were incurred during January 2017.
- 13) You testified that you are seeking reinstatement of you and your spouse's Essential Plan for the month of January 2017.
- 14) NYSOH records include an Incident numbered [REDACTED] dated January 5, 2017, that stated you were appealing to have Child Health Plus coverage for your children backdated to January 1, 2017. During the hearing, the Hearing Officer asked you if the current appeal included a review of the start date for your children's Child Health Plus plan. You testified that you were not appealing your children's Child Health Plus plan start date.

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 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 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

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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)).

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 you and your spouse's eligibility for the Essential Plan ended effective December 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 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 September 10, 2016, you were advised that you and your spouse were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income and spouse's citizenship status before December 8, 2016.

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

You testified that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did receive electronic alerts notifying

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you of notices in your NYSOH account during the months you were ill. Therefore, based on your testimony it is concluded that you received the electronic alert notifying you of the September 10, 2016 notice from NYSOH directing that you provide documentation confirming your household income and your spouse's citizenship status before December 8, 2016.

You testified that despite receiving the email alerts from NYSOH, you did not check the notices in your NYSOH account because you were ill. You testified that you did not ask your spouse to review the notices in your NYSOH account after receiving email alerts. You testified that you did not review the notices in your NYSOH account until sometime in December 2016.

You testified that your physical condition prevented you from viewing the notices in your NYSOH account after receiving the email alerts. You provided letters from your physician that listed the various medical issues and tests that you had undergone. However, based on the hearing testimony and the medical documentation, there is insufficient evidence to find that you or a representative were unable to timely review the notices from NYSOH after receiving email alerts.

Therefore, it is concluded that NYSOH did give you the proper notice that you needed to submit documentation of you and your spouse's income and spouse's citizenship status to confirm your eligibility for the Essential Plan.

Since you were made aware of did receive proper notice that there was an inconsistency in your NYSOH account, the December 15, 2016 eligibility determination and December 15, 2016 disenrollment notices, stating that you and your spouse were no longer eligible for the Essential Plan because you failed to submit documentation are AFFIRMED.

Decision

The December 15, 2016 eligibility determination notices are AFFIRMED.

The December 15, 2016 notice of disenrollment is AFFIRMED.

Effective Date of this Decision: May 18, 2017

How this Decision Affects Your Eligibility

NYSOH properly found you and your spouse not eligible to enroll in the Essential Plan effective January 1, 2017 because you did not provide documentation of your household's income or spouse's citizenship status.

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NYSOH properly found that you and your spouse's reenrollment in the Essential Plan was effective February 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
- 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:
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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The December 15, 2016 eligibility determination notices are **AFFIRMED**.

The December 15, 2016 notice of disenrollment is **AFFIRMED**.

NYSOH properly found you and your spouse not eligible to enroll in the Essential Plan effective January 1, 2017 because you did not provide documentation of your household's income or spouse's citizenship status.

NYSOH properly found that you and your spouse's reenrollment in the Essential Plan was effective February 1, 2017.

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)

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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&btumi 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.