



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

Notice of Decision

Decision Date: May 19, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014875

[REDACTED]

Dear [REDACTED],

On April 12, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 10, 2017 eligibility determination and February 18, 2017 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: May 19, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014875



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 eligibility for and enrollment in the Essential Plan was effective March 1, 2017?

Procedural History

On November 24, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan, effective January 1, 2016.

On November 25, 2015, NYSOH issued an enrollment notice confirming your selection of an Essential Plan on November 18, 2015. The notice stated that your Essential Plan coverage would begin effective January 1, 2016.

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

On November 9, 2016, NYSOH received an update to your application for health insurance. This update included that your child was now seeking insurance under your account.

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On November 10, 2016, NYSOH issued an eligibility determination notice stating that while your child was eligible to purchase a qualified health plan (QHP) through NYSOH, he did not qualify to select a health plan outside of the open enrollment period for 2016. This eligibility determination was effective December 1, 2016.

Also on November 10, 2016, NYSOH issued a notice stating that your November 9, 2016 application had been reviewed, and that the information contained in that application did not match what NYSOH received from state and federal resources. You were requested to provide income documentation by November 24, 2016 so that your eligibility could be determined.

Finally, on November 10, 2016, NYSOH issued a disenrollment notice stating that your Essential Plan coverage would end effective November 30, 2016.

On November 16, 2016, NYSOH received five earnings statements issue to you by your employer, [REDACTED], between September 28, 2016 and November 4, 2016.

On November 17, 2016, NYSOH received an update to your application for health insurance.

On November 18, 2016, NYSOH issued a notice stating that your November 17, 2016 application had been reviewed, and that the information contained in that application did not match what NYSOH received from state and federal resources. You were requested to provide income documentation for yourself by November 24, 2016, and for your child by December 2, 2016, so that your household's eligibility could be determined.

On November 22, 2016, NYSOH received an earnings statement issued to you by your employer on November 14, 2016.

On November 23, 2016, NYSOH received an earnings statement issued to you by your employer on November 18, 2016.

On December 3, 2016, NYSOH issued a notice stating that the income documentation you provided was insufficient to confirm the information contained in your application. You were requested to provide additional documentation for you and your child by December 17, 2016.

On December 7, 2016, NYSOH received a letter from you stating that you have supported your son for the past five years, and that he is not employed.

On December 12, 2016, NYSOH received an earnings statement issued to you by your employer on October 28, 2016.

On December 13, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible to enroll in a QHP at full cost, effective January 1, 2017. However, additional documentation was required for NYSOH to issue an eligibility determination for you. You were requested to provide additional documentation by December 24, 2016.

On December 20, 2016, NYSOH received a letter, dated November 28, 2016, stating that you certified for unemployment benefits for the week ending November 27, 2016, and that additional information was needed from you to certify your benefits during that week.

On December 23, 2016, NYSOH issued a notice stating that the income documentation you provided was insufficient to confirm the information contained in your application. You were requested to provide additional documentation for you and your child by January 8, 2017.

On January 17, 2017, NYSOH received a revised application for health insurance. This application reflected that your child was no longer seeking health insurance through your NYSOH account. In response to this application, NYSOH prepared a preliminary eligibility determination stating that your eligibility could not be determined since the information you provided did not match what NYSOH obtained from state and federal sources.

Also on January 17, 2017, NYSOH you spoke to NYSOH's Account Review Unit and appealed insofar as NYSOH failed to issue you a timely eligibility determination.

On January 21, 2017, NYSOH received (1) an earnings statement issued to you by your employer on January 13, 2017, and (2) an Official Record of Benefits Payment History issued by NYS Dept. of Labor, reflecting that you were awarded \$348.00 in unemployment benefits beginning July 25, 2016, and the amount you received between August 4, 2016 and January 3, 2017.

On February 9, 2017, NYSOH reran your eligibility for health insurance based on information contained in your account as of that date.

On February 10, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium for a limited time, effective March 1, 2017. In order to confirm your eligibility, NYSOH requested that you provide additional income documentation by May 10, 2017.

Also on February 10, 2017, NYSOH issued a notice stating that the income documentation you provided to NYSOH was insufficient to resolve the inconsistency. You were requested to provide additional income documentation to confirm your eligibility.

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On February 17, 2017, NYSOH received (1) three earnings statements issued to you by your employer between January 20, 2017 and February 3, 2017, and (2) a letter issued to you by your employer confirm that you would not be paid between February 13, 2017 and February 17, 2017, and that you would be collecting unemployment between February 20, 2017 and February 24, 2017.

On February 18, 2017, NYSOH issued an enrollment notice confirming your selection of an Essential Plan as of February 17, 2017. The notice stated that your Essential Plan coverage would begin effective March 1, 2017.

On March 2, 2017, received two earnings statements issued to you by your employer between February 10, 2017 and February 17, 2017.

On April 12, 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 are appealing only your eligibility.
- 2) You updated your application on November 9, 2016. Based on this application, NYSOH requested that you provide additional income documentation by November 24, 2016.
- 3) Your Essential Plan coverage had terminated effective November 30, 2016.
- 4) According to your NYSOH account:
 - (a) you uploaded to your NYSOH account seven earning statements between November 16, 2016 and November 23, 2016, which reflected your earnings received from your employer between September 28, 2016 and November 18, 2016.
 - (b) you uploaded to NYSOH an Official Record of Benefits Payment History issued by NYS Dept. of Labor, showing that you were awarded \$348.00 in unemployment benefits beginning July 25, 2016, and the amount you received between August 4, 2016 and January 3, 2017.
- 5) On February 9, 2017, you selected an Essential Plan through NYSOH.
- 6) Your Essential Plan coverage resumed effective March 1, 2017.

- 7) You testified that you were upset at the length of time that had elapsed since you provided the income documentation as requested by NYSOH, until the time you were ultimately permitted to enroll in an Essential Plan.
- 8) You testified that you were seeking for your Essential Plan coverage to be reinstated effective December 1, 2016/

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 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

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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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your enrollment in your Essential Plan was effective no earlier than March 1, 2017.

Your NYSOH account was updated on November 9, 2016. The income amount that was entered into this application did not match federal and state data sources. As a result, on November 10, 2016 NYSOH issued a notice directing you to submit additional income documentation to confirm your eligibility.

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income. If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

In addition to the income you received from your employment, you also attested in your November 9, 2016 application to receiving \$348.00 per week from your unemployment benefits.

The record reflects that between November 16, 2016 and November 23, 2016, you provided seven earnings statements, which reflected your earnings received from your employer between September 28, 2016 and November 18, 2016. However, the documents you provided were determined by NYSOH to be insufficient to confirm your eligibility. You were requested to provide additional income documentation no later than December 17, 2016.

The record further reflects that on January 21, 2017, you provided an Official Record of Benefits Payment History issued by NYS Dept. of Labor, showing that you were awarded \$348.00 in unemployment benefits beginning July 25, 2016, and the amount you received between August 4, 2016 and January 3, 2017.

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While NYSOH ultimately verified the documents you provided on February 9, 2017, the credible evidence of record reflects that your application would have been considered complete on January 21, 2017 when you provided the documents containing your Official Record of Benefits Payment History issued by NYS Department of Labor.

Accordingly, we may reasonably infer that you would have selected an Essential Plan as of January 21, 2017, the date that your application was complete.

The date on which 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 will go into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month will go into effect on the first day of the second following month.

The record supports that the income documentation provided between November 16 and January 21, 2017 was determined to be valid, and NYSOH had sufficient information to render an eligibility determination as of January 21, 2017.

Therefore, the February 10, 2017 eligibility determination notice and the February 18, 2017 enrollment notice stating that you were eligible for an enrolled in an Essential Plan with an enrollment start date of March 1, 2017 is correct, and must be AFFIRMED.

Decision

The February 10, 2017 eligibility determination notice is AFFIRMED.

The February 18, 2017 enrollment notice is AFFIRMED.

Effective Date of this Decision: May 19, 2017

How this Decision Affects Your Eligibility

Your eligibility has not changed.

You were eligible for coverage under the Essential Plan effective March 1, 2017.

Please note, however, that this Decision does not affect any determinations issued by NYSOH on or after February 18, 2017.

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)

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

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The February 10, 2017 eligibility determination notice is AFFIRMED.

The February 18, 2017 enrollment notice is AFFIRMED.

Your eligibility has not changed.

You were eligible for coverage under the Essential Plan effective March 1, 2017.

Please note, however, that this Decision does not affect any determinations issued by NYSOH on or after February 18, 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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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।

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. y&btumi 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.

אײִדיש (Yiddish)

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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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