



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

## Notice of Decision

Decision Date: May 10, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015144

[REDACTED]

Dear [REDACTED],

On May 3, 2017, your authorized representative appeared by telephone at a hearing on your appeal of NY State of Health's January 21, 2017 disenrollment notice, and January 25, 2017 eligibility determination 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.

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## Decision

Decision Date: May 10, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015144



## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that you were no longer eligible to remain enrolled in the Essential Plan effective January 31, 2017?

## Procedural History

On January 13, 2016, NY State of Health (NYSOH) issued an eligibility determination notice based on your January 12, 2016 application stating you were eligible to enroll in the Essential Plan effective February 1, 2016. The notice stated your information will be sent to your local Department of Social Services to determine your eligibility for Medicaid on a different basis. The notice stated this was because you indicated you are disabled, blind, or chronically ill, and you may be eligible for Medicaid on a different basis.

On January 13, 2016, an enrollment notice was issued confirming your enrollment in the Essential Plan effective February 1, 2016.

On December 3, 2016, NYSOH issued a renewal notice stating based on information from state and federal data sources a decision could not be made about whether you qualify for financial help paying for your health coverage. You were asked to update the information in your account by January 15, 2017. The notice stated if you missed this deadline, the financial assistance you are getting may end.

On January 20, 2017, NYSOH issued an eligibility redetermination notice stating that you were newly eligible to purchase a qualified health plan at full cost effective February 1, 2017. This was because you did not respond to the renewal notice and did not complete your renewal within the required time frame.

On January 21, 2017, a disenrollment notice was issued stating your Essential Plan would end on January 31, 2017.

On January 24, 2017, you updated your application.

On January 25, 2017, NYSOH issued an eligibility redetermination notice stating you no longer qualify for Medicaid, Child Health Plus, the Essential Plan, or to receive advance premium tax credits or cost sharing reductions, or to purchase a qualified health plan effective March 1, 2017. The notice stated this was because individuals enrolled in Medicare cannot receive health coverage through NYSOH. Federal and state data sources show you are receiving Medicare. The notice further stated your information would be sent to your local Department of Social Services to determine your eligibility for Medicaid.

Also on January 25, 2017, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you were not eligible for the Essential Plan.

A letter was issued by NYSOH on February 1, 2017, stating you were eligible for the Essential Plan with a \$20.00 monthly premium because of being granted Aid to Continue until a decision is made on your appeal.

On May 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 were determined eligible for the Essential Plan on January 12, 2016, with an effective date of February 1, 2016.
- 2) On December 3, 2016, NYSOH issued a renewal notice indicating that you needed to update your NYSOH account by January 15, 2017 in order to continue your financial assistance.
- 3) Your authorized representative testified that you receive your notices from NYSOH by electronic alert.

- 4) Your authorized representative testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to update your application in order to renew your eligibility. You also did not receive any renewal notice by regular mail.
- 5) Your authorized representative testified that she did not know you needed to update your account until January, 2017.
- 6) The record reflects that on January 24, 2017, NYSOH received your updated application for health insurance.
- 7) The record shows that based on your updated application on January 24, 2017, you were redetermined ineligible for the Essential Plan as you were now showing from data sources that you were eligible for or receiving Medicare.
- 8) Your authorized representative testified you were determined eligible for Medicare Part A effective December 2016 as you had been receiving Social Security Disability for two years as of that month.
- 9) Your authorized representative testified she provided the agency administering Medicare benefits a declination letter in December, 2016. This letter was never processed by Medicare however, and your coverage and eligibility continued, which you then enrolled in all parts you were eligible for effective April 1, 2016.
- 10) Your authorized representative testified you are now eligible for and enrolled in Medicare Part A, B, and D, effective April 1, 2017.
- 11) Your authorized representative testified that you are seeking coverage in the Essential Plan only for the months of February and March, 2017.
- 12) Your authorized representative testified she prepaid your premium responsibility to your Essential Plan for the months of February and March, 2017.

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

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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).

### 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>).

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>).

### Minimum Essential Coverage

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 §§ 36B(c)(2)(B) and 5000A(f)).

According to 26 USC § 5000A, which is part of the Internal Revenue Code, various government-sponsored plans provide minimum essential coverage, including the Medicare program under part A of title XVIII of the Social Security Act (26 USC § 5000A(f)(1)(A)(i), 42 USC §§ 1395c et seq.).

### 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)).

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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 you were no longer eligible to remain enrolled in your Essential Plan, effective January 31, 2017.

On January 12, 2016, you submitted an application for financial assistance. Because of this application, you were found eligible for the Essential Plan as of February 1, 2016 and you were enrolled into a plan.

On December 3, 2016, NYSOH issued a renewal notice stating that based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by January 15, 2017 or you might lose the financial assistance you were currently receiving.

No updates were received within the required time frame and on January 21, 2017, NYSOH issued a disenrollment notice stating that your enrollment in your Essential Plan was terminated, effective January 31, 2017.

Your authorized representative testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. She credibly testified that you did not receive any electronic alert regarding the notice that directed you to update the information in your NYSOH account. There is no evidence in your account showing that any email alert was sent to you regarding the need to renew your application, that any such electronic notice failed, or that the notice was later sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the required notice that you needed to update your account.

However, the Essential Plan is available to individuals who are not otherwise eligible for minimum essential coverage except through the individual market.

Your authorized representative testified you were determined eligible for Medicare Part A effective December, 2016 as you had been receiving Social Security Disability for two years as of that month. According to federal law, various government-sponsored plans provide minimum essential coverage, including the Medicare program under part A.

Since you were eligible for Medicare Part A at the time of the renewal, you would have been ineligible for the Essential Plan; even if you had received proper notice of the need to renew.

Therefore, the January 21, 2017, a disenrollment notice stating your Essential Plan would end on January 31, 2017 is AFFIRMED.

The January 25, 2017 eligibility determination notice stating that you were no longer eligible to remain enrolled in the Essential Plan because of being determined eligible for Medicare benefits, is AFFIRMED.

## **Decision**

The January 21, 2017 disenrollment notice is AFFIRMED.

The January 25, 2017 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** May 10, 2017

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

NYSOH properly determined that you were not eligible for the Essential Plan because you were receiving minimum essential coverage through Medicare Part A.

## **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)).

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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 January 21, 2017 disenrollment notice is **AFFIRMED**.

The January 25, 2017 eligibility determination notice is **AFFIRMED**.

NYSOH properly determined that you were not eligible for the Essential Plan because you were receiving minimum essential coverage through Medicare Part A.

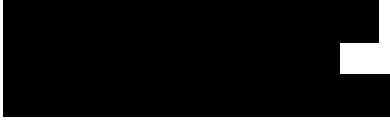
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## **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

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**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 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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