



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

Notice of Decision

Decision Date: June 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015545

[REDACTED]

Dear [REDACTED],

On May 4, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 11, 2016 eligibility determination, October 11, 2016 disenrollment, October 28, 2016 eligibility determination and October 28, 2016 plan enrollment notices.

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 NY State of Health 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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Issues

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

Was your appeal of NY State of Health's October 28, 2016 eligibility determination notice timely?

Did NY State of Health properly determine that you and your spouse's eligibility for the Essential Plan ended effective October 31, 2016?

Did NYSOH properly determine that you and your spouse's eligibility for and enrollment in the Essential Plan was effective December 1, 2016?

Procedural History

On July 5, 2016, NY State of Health (NYSOH) received your updated application for financial assistance with your and your spouse's health insurance.

On July 6, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective August 1, 2016. The notice directed you to provide documentation confirming your and your spouse's income before October 3, 2016.

Also on July 6, 2016, NYSOH issued a plan enrollment notice confirming your and your spouse's enrollment in an Essential Plan, effective January 1, 2016.

No income documentation was received by October 3, 2016.

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On October 10, 2016, NYSOH ran an application for financial assistance with health insurance on your and your spouse's behalf.

On October 11, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a qualified health plan at full cost. The notice stated that you both were not eligible to enroll in the Essential Plan because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective November 1, 2016.

Also on October 11, 2016, NYSOH issued a disenrollment notice stating that your and your spouse's enrollment in the Essential Plan would end as of October 31, 2016, because you and your spouse were no longer eligible to remain in your plan.

On October 27, 2016, NYSOH received your and your spouse's updated application for financial assistance with health insurance.

On October 28, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective December 1, 2016. This notice further directed you to submit documentation of your and your spouse's income by January 25, 2017.

Also on October 28, 2016, NYSOH issued a plan enrollment notice, based on your plan selection on October 27, 2016, confirming your and your spouse's enrollment in an Essential Plan effective December 1, 2016.

On February 3, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your and your spouse's Essential Plan for the month of November 2016.

On May 4, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and the record was 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 did not file an appeal until February 2017 because you were told by multiple NYSOH representatives that you and your spouse would be eligible for a backdate of your Essential Plan coverage.

- 2) You further testified that when you were told that you and your spouse were not eligible for a backdate of coverage that you immediately filed the appeal.
- 3) You testified, and your application indicates, that you receive all of your notices from NYSOH via regular mail.
- 4) You testified that you did not receive any notices stating that your eligibility was only conditional and that you needed to provide documentation of your household's income.
- 5) You further testified that you were never told by the application counselor that assisted you and your spouse with your application for financial assistance with health insurance that you needed to submit income documentation and you thought that you were all set until December 31, 2016.
- 6) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 7) You testified that you did not know that you needed to submit documentation of your and your spouse's income until you received the October 11, 2016 notice stating that you and your spouse were disenrolled from your Essential Plan, effective October 31, 2016.
- 8) You updated your account on October 28, 2016.
- 9) You testified that you and your spouse are seeking enrollment in your Essential Plan as of November 1, 2016 because your spouse has unpaid medical bills for services she received that month.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45

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CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

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)).

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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 first issue under review is whether your appeal of NYSOH's October 11, 2016 eligibility determination was timely.

The record reflects that you first contacted NYSOH to file a complaint about the termination of your and your spouse's Essential Plan start date on February 3, 2017. The record indicates that a formal appeal was filed on that day.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of the termination of your and your spouse's APTC as stated in the October 28, 2016 eligibility determination, an appeal should have been filed on or around December 27, 2016. The record reflects that your appeal was filed on February 3, 2017, which is well beyond the 60-day deadline.

However, you testified that you had contacted NYSOH before filing the appeal and after receiving the October 28, 2016 eligibility determination and were told multiple times that your and your spouse's coverage would be backdated. It wasn't until you were told by NYSOH that it would not be backdated that you filed the appeal.

It is reasonable to infer that you filed your appeal within a reasonably short time of learning that your and your spouse's coverage would not be backdated. Therefore, your appeal was timely filed.

The second issue under review is whether NYSOH properly determined that your and your spouse's eligibility for the Essential Plan ended effective October 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 notice issued on July 6, 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 before October 3, 2016.

You testified that you did not receive any notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. 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. As such, the July 6, 2016 notice is deemed to have been properly sent.

Therefore, NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation.

Accordingly, your and your spouse's eligibility for the Essential Plan terminated as of October 31, 2016 because you did not submit documentation and did not adequately demonstrate that you could not provide documentation to confirm your income.

Therefore, the October 11, 2016 eligibility determination notice and the October 11, 2016 disenrollment notice are AFFIRMED.

The third issue under review is whether NYSOH properly determined that your and your spouse's eligibility for and enrollment in the Essential Plan was effective December 1, 2016.

You testified, and your account confirms, that you updated your NYSOH application on October 27, 2016. That day, you and your spouse selected an Essential 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.

Since on October 27, 2016, you and your spouse selected an Essential Plan, your and your spouse's enrollment would properly take effect on the first day of the second month following October 2016; that is, on December 1, 2016.

Therefore, the October 28, 2016 eligibility determination and the October 28, 2016 plan enrollment notices stating respectively that your and your spouse's eligibility for and enrollment in the Essential Plan was effective December 1, 2016, are correct and must be AFFIRMED.

Decision

The October 11, 2016 eligibility determination notice is AFFIRMED.

The October 11, 2016 disenrollment notice is AFFIRMED.

The October 28, 2016 eligibility determination notice is AFFIRMED.

The October 28, 2016 plan enrollment notice is AFFIRMED.

This Decision has no effect on any subsequent eligibility determinations made by NYSOH.

Effective Date of this Decision: June 5, 2017

How this Decision Affects Your Eligibility

NYSOH properly found you and your spouse not eligible to enroll in the Essential Plan effective November 1, 2016 because you did not provide documentation of your household's income.

NYSOH properly found that your and your spouse's reenrollment in the Essential Plan was effective December 1, 2016.

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.

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).

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

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Summary

The October 11, 2016 eligibility determination notice is AFFIRMED.

The October 11, 2016 disenrollment notice is AFFIRMED.

NYSOH properly found you and your spouse not eligible to enroll in the Essential Plan effective November 1, 2016 because you did not provide documentation of your household's income.

The October 28, 2016 eligibility determination notice is AFFIRMED.

The October 28, 2016 plan enrollment notice is AFFIRMED.

NYSOH properly found that your and your spouse's reenrollment in the Essential Plan was effective December 1, 2016.

This Decision has no effect on any subsequent eligibility determinations made by NYSOH.

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&tumi 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.

שׂוּדִישׁ (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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