



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

## Notice of Decision

Decision Date: June 27, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015581

[REDACTED]

Dear [REDACTED],

On May 9, 2017, your spouse, acting as your Authorized Representative, appeared on your behalf by telephone at a hearing on your appeal of NY State of Health's January 11, 2017 eligibility determination notice and January 30, 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: June 27, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015581

[REDACTED]

## Issues

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

Did NY State of Health (NYSOH) properly determine that your Essential Plan coverage began effective February 1, 2017?

## Procedural History

On August 9, 2016, NYSOH issued a renewal notice stating that your Medicaid coverage through Allegany Department of Social Services would end effective October 31, 2016, and that you now needed to renew your coverage through NYSOH. You were advised to log into your account between September 16, 2016 and October 15, 2016 to complete the renewal process.

On September 16, 2016, NYSOH received an application for health insurance. In response to this application, NYSOH prepared a preliminary eligibility determination stating that your eligibility could not be determined without additional income documentation.

Also on September 16, 2016, NYSOH received a screenshot of a mostly illegible earning statement issued to you.

On September 17, 2016, NYSOH issued a notice stating that the September 16, 2016 application had been reviewed, and the information contained therein did not match what NYSOH received from state and federal sources. You ([REDACTED]) were requested to provide "proof of income" by October 1, 2016 so that your eligibility could be determined.

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On September 23, 2016, NYSOH received (1) an Authorized Representative Identity Verification Form, and (2) a summary spreadsheet issued by your employer, [REDACTED] reflecting your gross earnings received between April 14, 2016 and September 15, 2016.

On November 2, 2016, NYSOH redetermined your eligibility for health insurance.

On November 3, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in a qualified health plan (QHP) at full cost, effective December 1, 2016. This was because you did not provide the requested information to verify your income by the due date.

On November 8, 2016, NYSOH received an update to your application for health insurance.

On November 9, 2016, NYSOH issued a notice stating that the November 8, 2016 application had been reviewed, and the information contained therein did not match what NYSOH received from state and federal sources. You were requested to provide income documentation for you and your children by November 23, 2016 so that your eligibility could be determined.

On November 14, 2016, NYSOH received an earnings statement summary issued to you by your employer reflecting your income received between July 7, 2016 and October 27, 2016.

On December 4, 2016, NYSOH redetermined your eligibility for health insurance.

On December 5, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in a QHP at full cost, effective January 1, 2016. This was because you did not provide the requested information to verify your income by the due date.

On December 5, 2016 and December 12, 2016, NYSOH received updates to your application for health insurance.

On December 6, 2016 and December 13, 2016, NYSOH issued notices stating the information contained in your account did not match what NYSOH received from state and federal sources. You were requested to provide income documentation for you and your children by December 20, 2016 so that your eligibility could be determined.

On January 3, 2017, NYSOH received an earnings summary issued to your spouse by her employer, [REDACTED] ([REDACTED]), reflecting her income between November 18, 2016 and December 16, 2016.

On January 10, 2017, NYSOH received a letter issued by your employer stating that you have been employed for the entirety of 2016, and that your gross wages for the year were \$25,971.00.

Also on January 10, 2017, NYSOH redetermined your eligibility for health insurance.

On January 11, 2017, issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective February 1, 2017.

On January 14, 2017, NYSOH received a completed Authorized Representative Designation Form reflecting that you wanted your spouse, [REDACTED], to act as your Authorized Representative for all matters related to your NYSOH account, including during the appeal.

On January 18, 2017, NYSOH received (1) a letter issued to you by your employer, dated January 6, 2017, confirming your average gross income of approximately \$998.88 once every two weeks, and (2) a duplicate copy of the letter issued by your employer stating that you have been employed for the entirety of 2016, and that your gross wages for the year were \$25,971.00.

On January 30, 2017, NYSOH issued an enrollment notice confirming your selection of an Essential Plan as of January 29, 2017. The notice stated that your Essential Plan coverage would begin effective February 1, 2017.

On February 6, 2017, you spoke to NYSOH's Account Review Unit and appealed the enrollment notice insofar as it began your Essential Plan coverage on February 1, 2017, and not December 1, 2016.

On May 9, 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) Your Medicaid coverage through Allegheny Department of Social Services ended effective October 31, 2016.
- 2) Your spouse testified that you are appealing only your own eligibility, since your children had been found eligible for Medicaid.
- 3) Your initial application was submitted to NYSOH on September 16, 2016.

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- 4) On September 17, 2016, NYSOH issued you a notice requesting income documentation, and did not include any specific request for your spouse's income.
- 5) You provided an illegible earning statement issued to you on September 16, 2016, but provided an earnings summary issued to you by your employer, [REDACTED] reflecting your gross earnings received between April 14, 2016 and September 15, 2016.
- 6) On November 9, 2016, a notice issued to you included an attachment entitled, "Request for Additional Information – Documentation List," which explained what documentation you would need to send in to show proof of income. It stated that to show income, you needed to submit income documentation from all the members of your household.
- 7) On November 14, 2016, you provided to NYSOH an additional earnings summary issued to you by your employer reflecting your income received between July 7, 2016 and October 27, 2016.
- 8) Your account shows that there were multiple actions taken on your account on December 5, 2016.
- 9) A fax was sent to NYSOH on December 19, 2016, which contained income documentation for your wife.
- 10) NYSOH's records also include a reference to a call you made for assistance on December 20, 2016. It documents that you did not understand why your family had been recertified for Medicaid, but you had not. You were told that NYSOH was one to two months behind in verifying paperwork. You advised the NYSOH representative that you were in desperate need of your medication, and asked if the process could be expedited. There is no indication that the representative told you that the documentation that was needed related to your wife's income, or explained to you how to file an appeal, whether expedited or otherwise.
- 11) On January 3, 2017, the documentation you provided to NYSOH (an earnings summary issued to your spouse by her employer, [REDACTED], [REDACTED]), reflecting her income between November 18, 2016 and December 16, 2016), was uploaded by NYSOH to your account.
- 12) You were found eligible for the Essential Plan effective February 1, 2017, based on a redetermination in your account as of January 10, 2017.
- 13) Your spouse testified that you were seeking for your Essential Plan coverage to begin no later than December 1, 2016, since you incurred

medical expenses during December 2016, for which you did not have health insurance.

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 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 February 1, 2017.

Your NYSOH account was created in August 2016, in anticipation that your coverage would be handled through NYSOH, instead of your local Department of Social Services.

Your NYSOH account was updated on September 16, 2016. The income amount that was entered into this application did not match federal and state data sources. As a result, on September 17, 2016 NYSOH issued a notice directing you to submit additional income documentation to confirm your eligibility; it did not specify that documentation for your entire household was needed.

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.

The record reflects that on September 23, 2016 earnings summary issued to you by your employer, [REDACTED] reflecting your gross earnings received between April 14, 2016 and September 15, 2016. Accordingly, you did provide documentation to NYSOH before the deadline.

The record further reflects that you were subsequently requested multiple times to provide additional documentation. You eventually provided your spouse's income documentation on December 19, 2016, which was not uploaded to your account by NYSOH until January 3, 2017. NYSOH redetermined your eligibility effective January 10, 2017. As a result of this determination, you were found eligible to enroll in the Essential Plan, effective February 1, 2017. On January 29, 2017, you selected an Essential Plan for your enrollment and were provided with a coverage start date of February 1, 2017.



The credible evidence of record reflects that while you provided requested documentation prior to the deadline of September 23, 2016, you were never told specifically what was missing from your documentation. Moreover, when you called NYSOH on December 20, 2016, the representative failed to explain your Appeals rights, failed to explain to you the specific documentation that was needed, and failed to act on your request for a medically necessary expedited process.

As a result of not providing your wife's income documentation earlier, you were not found eligible for or permitted to enroll in the Essential Plan until January 10, 2016.

The Appeals Unit finds that you were not provided with the appropriate notice to complete your application, because you were never told what was needed and what was subsequently found to be lacking in the documentation you submitted. Had NYSOH done so, you would have had ample opportunity to produce the necessary documentation and have no gap in your coverage.

We, therefore, find that your eligibility should have been determined as of September 23, 2016, and that you would have selected an Essential Plan as of that date.

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.

Had you been allowed to select a plan on September 23, 2016, your Essential Plan coverage would have been effective November 1, 2016.

Therefore, the January 11, 2017 eligibility determination notice and the January 30, 2017 enrollment notice are MODIFIED to state that you were eligible for and enrolled in an Essential Plan with an enrollment start date of November 1, 2016.

## **Decision**

The January 11, 2017 eligibility determination notice and the January 30, 2017 enrollment notice are MODIFIED to state that you were eligible for and enrolled in an Essential Plan with an enrollment start date of November 1, 2016.

**Effective Date of this Decision:** June 27, 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).

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

Your Essential plan coverage is effective as of November 1, 2016.

Please note that you will be responsible for any premiums due in connection with the backdating of your Essential Plan coverage.

## **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.

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## **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 11, 2017 eligibility determination notice and the January 30, 2017 enrollment notice are MODIFIED to state that you were eligible for and enrolled in an Essential Plan with an enrollment start date of November 1, 2016.

Your Essential plan coverage is effective as of November 1, 2016.

Please note that you will be responsible for any premiums due in connection with the backdating of your Essential Plan coverage.

## **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&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.

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