



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

Notice of Decision

Decision Date: June 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015710

[REDACTED]

Dear [REDACTED],

On May 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 2, 2017 eligibility determination and disenrollment notices and the February 16, 2017 enrollment confirmation 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
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Albany, NY 12211

Decision

Decision Date: June 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015710



Issues

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

Did NY State of Health (NYSOH) properly determine that you were no longer eligible to remain enrolled in your Essential Plan, effective February 1, 2017?

Did NYSOH properly determined that your reenrollment in your Essential Plan became effective no earlier than March 1, 2017?

Procedural History

On September 27, 2016, NYSOH received your updated application for financial assistance with health insurance.

On October 7, 2016, NYSOH issued an eligibility determination notice, based on your September 27, 2016 updated application, stating you were eligible to enroll in the Essential Plan, for a limited time, effective November 1, 2016. The notice directed you to submit documentation of your income to confirm your eligibility by December 26, 2016 or you might lose your insurance or receive less help paying for your coverage.

On October 12, 2016, NYSOH issued an enrollment notice, based on your October 11, 2016 plan selection, confirming your enrolment in an Essential Plan with coverage effective November 1, 2016.

On January 1, 2017, NYSOH systematically redetermined your eligibility.

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On January 2, 2017, NYSOH issued an eligibility determination notice stating you were eligible to receive advance payments of the premium tax credit (APTC) of up to \$299.00 per month, effective February 1, 2017. The notice indicated you were no longer eligible for the Essential Plan and that the eligibility determination was based on income information obtained from state and federal data sources.

Also on January 2, 2017, NYSOH issued a disenrollment notice stating your Essential Plan coverage would end, effective January 31, 2017, because you were no longer eligible to remain in the plan.

On February 9, 2017, NYSOH received your updated application for financial assistance with health insurance. That day a preliminary determination was prepared finding you eligible to enroll in the Essential Plan, effective March 1, 2017. You selected a plan for enrollment that day.

Also on February 9, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you were not enrolled in an Essential Plan for the month of February 2017.

On February 10, 2017, NYSOH issued an eligibility determination notice, based on your February 9, 2017 updated application, stating you were eligible to enroll in the Essential Plan, for a limited time, effective March 1, 2017. The notice directed you to submit proof of your income by May 10, 2017 to confirm the information in your application or you might lose your insurance or receive less help paying for your coverage.

On February 16, 2017, NYSOH issued an enrollment confirmation notice, based on your February 9, 2017 plan selection, stating you were enrolled in an Essential Plan, effective March 1, 2017.

On May 10, 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) An updated application for financial assistance with health insurance was submitted on your behalf on September 27, 2016 listing your expected annual income as \$16,615.00.
- 2) That application indicated you had multiple sources of income including earned income from an employer as well as separate business income.

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- 3) On October 1, 2016, NYSOH received copies of four biweekly paystubs from your employer ([REDACTED]). No documentation confirming the business income attested to in your application was submitted.
- 4) The October 7, 2016 eligibility determination notice, based on your September 27, 2016 application, stated that your eligibility to enroll in the Essential Plan was only for a limited time. The notice directed you to submit documentation confirming your income by December 26, 2016 or you might lose your insurance or receive less help paying for coverage.
- 5) The October 7, 2016 eligibility determination notice included a list of acceptable income documentation for various types of income. The notice indicated that paystubs, for the last four weeks, was acceptable evidence of wages and salary. The notice also indicated that acceptable documentation for self-employment income included records of detailed earnings and expenses or business payrolls and records for the last three months, or a signed and dated filed tax return from the previous year if representative of attested income.
- 6) You testified, and your account confirms, that you receive all your notices from NYSOH via regular mail.
- 7) Your account confirms that the address listed on the October 7, 2016 eligibility determination notice matches the mailing address listed in your account.
- 8) There is no evidence that any notice issued to you by NYSOH has been returned as undeliverable.
- 9) According to your account, NYSOH was unable to confirm the income information listed in your application, because you failed to submit any documentation of your business income as attested to in the application.
- 10) NYSOH redetermined your eligibility on January 1, 2017, based on income information received from state and federal data sources, because you failed to submit documentation sufficient to confirm the income information listed in your September 27, 2016 application.
- 11) Your Essential Plan coverage was terminated, effective January 31, 2017, because you were no longer eligible for the Essential Plan, based on the income information received from data sources on January 1, 2017.

- 12) NYSOH issued a disenrollment notice dated January 2, 2017, stating your Essential Plan coverage would end on January 31, 2017, because you were no longer eligible for the plan.
- 13) You testified you do not remember whether you received this notice.
- 14) Your account confirms the address listed on the January 2, 2017 disenrollment notice matches the mailing address listed in your application. There is no evidence that this notice was returned to NYSOH as undeliverable.
- 15) You testified you did not know you had to contact NYSOH before January 15, 2017 to reenroll in a plan to avoid a gap in coverage.
- 16) You testified you were advised that if you had called the day you received the notice advising you that your Essential Plan coverage was terminated, you still would not have been able to avoid a gap in coverage for the month of February 2017.
- 17) According to your account, on February 9, 2017, you contacted NYSOH and an updated application was submitted on your behalf that day listing an expected annual income of \$22,800.00.
- 18) Based on the information in your February 9, 2017 application, NYSOH determined you conditionally eligible to enroll in the Essential Plan, effective March 1, 2017. You were again directed to submit documentation of your income to confirm the information listed in your application.
- 19) You selected an Essential Plan for enrollment on February 9, 2017 and your coverage through this plan became effective on March 1, 2017.
- 20) You appealed insofar as you had a gap in coverage for the month of February 2017.
- 21) Your account confirms, NYSOH did not receive proof of your business income until May 2, 2017 when you uploaded a copy of a signed form 1040 from your 2016 tax return. Based on this information as well as updated paystubs you submitted, NYSOH systematically determined you were not eligible for financial assistance.
- 22) According to your account, you updated your application on May 15, 2017, increasing your attested annual income to \$35,558.88. Based on the information in this application, you were determined fully eligible to receive advance payments of the premium tax credit (APTC) and you

enrolled in a qualified health plan with APTC applied, effective June 1, 2017.

- 23) You testified you are seeking reinstatement in your Essential Plan for the month of February 2017.

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)).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; *see* <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); *see also* 42 CFR § 600.320). For selections 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 §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your eligibility for the Essential Plan ended effective January 31, 2017.

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.

An updated application for financial assistance with health insurance was submitted on your behalf on September 27, 2016 listing your expected annual income as \$16,615.00. That application indicated you had multiple sources of income including earned income from an employer as well as separate business income. According to your account, NYSOH was unable to verify the income information listed in that application.

In the eligibility determination issued on October 7, 2016, you were advised that you were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income before December 26, 2016. Additionally, that notice provided you with a list of acceptable documentation for different types of income, including wages and salary as well as acceptable proof of self-employment income.

You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. Your account confirms that the address listed on the October 7, 2016 eligibility determination notice matches the mailing address listed in your account. Additionally, there is no evidence that any notice issued to you by NYSOH has been returned as undeliverable. Therefore, it is concluded that NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account. Additionally, it is concluded that NYSOH provided you with proper notice of the types of documentation required to confirm the income information listed in your application.

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.

Although the evidence establishes you submitted sufficient documentation of the income earned from your employer by the December 26, 2016 deadline, your account confirms that you did not submit any documentation of your business income as attested to in your September 27, 2016 application. Accordingly, you failed to provide the requested documentation necessary to confirm the income information listed in your application.

As such, NYSOH systematically redetermined your eligibility on January 1, 2017, and determined you were no longer eligible for the Essential Plan, because you did not submit sufficient documentation and did not adequately demonstrate that you could not provide documentation to confirm the income information listed in your application.

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Therefore, the January 2, 2017 eligibility determination notice, to the extent it finds you ineligible for the Essential Plan, is correct and is AFFIRMED.

Additionally, the January 2, 2017 disenrollment notice stating your Essential Plan coverage would end, effective January 31, 2017, because you were no longer eligible to remain in the plan, is correct and must be AFFIRMED.

It is noted that NYSOH did not receive proof of your business income until May 2, 2017 when you uploaded a signed and dated copy of a form 1040 from your 2016 tax return. Based on that documentation as well as updated paystubs you submitted from your employer, NYSOH determined you were over the allowable income limit to receive financial assistance. However, on May 15, 2017, you updated your application and increased your attested annual income to \$35,558.88. According to your account, NYSOH was able to verify this attested income amount through state and federal data sources, and you were determined fully eligible to receive APTC. Accordingly, to date there is no evidence in the record that would substantiate the attested income amount listed in your September 27, 2016 application, and therefore justify any eligibility to enroll in the Essential Plan at that time.

The second issue is whether NYSOH properly determined that your reenrollment in an Essential Plan was effective no earlier than March 1, 2017.

You testified, and your account confirms, that you updated your NYSOH application on February 9, 2017. That day you 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 you selected your Essential Plan on February 9, 2017, before the fifteenth day of the month, your enrollment properly went into effect on the first day of the following month; that is, on March 1, 2017.

Therefore, the February 16, 2017 enrollment confirmation notice stating your enrollment in the Essential Plan was effective March 1, 2017, is correct and must be AFFIRMED.

It is noted that you testified you were unaware you had to contact NYSOH before January 15, 2017 to reenroll in a plan to avoid a gap in coverage. You further testified you were advised that if you had called the day you received the notice

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advising you that your Essential Plan coverage was terminated, you still would not have been able to avoid a gap in coverage for the month of February 2017. Although the regulations do not require NYSOH to provide applicants with the content of all applicable regulations including the “fifteenth of the month rule,” it is noted that the disenrollment notice issued by NYSOH advising you that your Essential Plan coverage would end January 31, 2017, was issued on January 2, 2017, well before the fifteenth day of the month. You testified you do not remember whether you received this notice, however, your account confirms it was sent to the mailing address listed on your account and there is no record of this notice being returned to NYSOH as undeliverable. Accordingly, it is concluded you received adequate notice that your Essential Plan coverage was ending in time to reenroll and avoid a gap in coverage. Thus, any gap in coverage is a direct result of your failure to timely respond to the disenrollment notice.

Decision

The January 2, 2017 eligibility determination notice, to the extent it finds you ineligible for the Essential Plan, is AFFIRMED.

The January 2, 2017 disenrollment notice is AFFIRMED.

The February 16, 2017 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: June 26, 2017

How this Decision Affects Your Eligibility

NYSOH properly found you not eligible to enroll in the Essential Plan effective January 31, 2017 because you did not provide documentation of your household’s income.

NYSOH properly found that your reenrollment in the Essential Plan was effective March 1, 2017.

You were not eligible to enroll in an Essential Plan in February 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.

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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 January 2, 2017 eligibility determination notice, to the extent it finds you ineligible for the Essential Plan, is AFFIRMED.

The January 2, 2017 disenrollment notice is AFFIRMED.

The February 16, 2017 enrollment confirmation notice is AFFIRMED.

NYSOH properly found you not eligible to enroll in the Essential Plan effective January 31, 2017 because you did not provide documentation of your household's income.

NYSOH properly found that your reenrollment in the Essential Plan was effective March 1, 2017.

You were not eligible to enroll in an Essential Plan in February 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)

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 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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