



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

## Notice of Decision

Decision Date: June 9, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015916

[REDACTED]

Dear [REDACTED]

On May 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 17, 2017 eligibility determination and 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 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).

This page intentionally left blank.



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

## Decision

Decision Date: June 9, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015916



## 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 an Essential Plan ended effective February 28, 2017?

## Procedural History

On November 29, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan for a limited time, effective January 1, 2017. The notice further directed you to provide documentation confirming your income before February 26, 2017.

On December 4, 2016, NYSOH issued a plan enrollment notice confirming your enrollment in an Essential Plan, effective January 1, 2017.

On December 6, 2016, NYSOH issued a notice stating that the documents you submitted did not confirm the information in your application and you needed to send in more proof to verify your income by February 26, 2017.

On February 13, 2017, NYSOH issued a notice stating that the documents you submitted did not confirm the information in your application and you needed to send in more proof to verify your income by February 27, 2017.

Also on February 13, 2017, NYSOH issued another notice stating that they had reviewed your February 12, 2017 updated application and the income information listed in your application does not match what they received from state and

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).

federal data sources. You were directed to submit more information regarding your household income by February 27, 2017 to confirm the information in your application.

Lastly, on February 13, 2017, NYSOH issued a disenrollment notice stating that your coverage with your Essential Plan 1 would end February 28, 2017.

On February 17, 2017, NYSOH issued an appeal notice acknowledging your February 16, 2017 request for review of your eligibility and NYSOH's failure to provide a timely notice of your eligibility.

On May 18, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) You testified that you contacted NYSOH several times after providing proof of income in November 2016 and were told to call back after the new year of 2017 began.
- 2) You testified that you elected to receive notices from NYSOH electronically, but did not receive any electronic alerts notifying you of any notice in your NYSOH account stating that the income documents you provided were insufficient and you needed to provide additional documentation of your income.
- 3) On November 17, 2016, you submitted four consecutive weekly paystubs from one place of employment. On December 5, 2016, NYSOH invalidated these documents on the basis that you submitted three weekly paystubs when four were required and you did not submit proof of income from your second employer.
- 4) Also on November 17, 2016, you submitted year-to-date record of detailed earnings and expense. On February 12, 2017, NYSOH invalidated this document and noted the following:

Invalid proof of income. [The applicant] submitted a 2015 1040 signed and dated by preparer along with paystubs from the one employer to add \$11175 business loss to additional income. Also updated income from \$49142.41 to \$45699.37. [The applicant] will need to submit 4 week worth of paystubs from [second employer] dated no more than 30 days prior to 11/28/2016 or refer to acceptable verification docs list. Letter sent, due date extended. [REDACTED]

- 5) On December 6, 2016 and again on February 13, 2017, NYSOH issued notices stating that additional income documentation was still needed and gave you until February 26, 2017 and February 27, 2017 respectively to submit proof of income.
- 6) Your NYSOH account indicates that on February 12, 2017, your application was systematically run and you were to be disenrolled from your Essential Plan, effective February 28, 2017, as stated in the February 13, 2017 disenrollment notice.
- 7) You testified that you are seeking reinstatement of your Essential Plan for the month of March 2017 because you had a medical bill from that month.
- 8) According to your NYSOH, your 2016 Form 1040 was uploaded to your account.

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

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).

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)).

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)).

### 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)).

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 that your eligibility for the Essential Plan ended effective February 28, 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 in order 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 issued on November 29, 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 February 26, 2017.

The record reflects that NYSOH received income documentation from you, which was uploaded to your NYSOH account on November 17, 2016 and before the deadline. On December 6, 2016, NYSOH issued a notice stating that the documents you submitted did not confirm the information in your application and you needed to send in more proof to verify your income by February 26, 2017.

You testified that you did not receive an email alert regarding this notice and had been in contact with NYSOH in November 2016 and December 2016 and were not informed that the documentation you had submitted was not sufficient. Instead, you testified you were told to call back after 2017 began.

On February 12, 2017, NYSOH invalidated the year-to-date record of detailed earnings and expense that you submitted on November 17, 2016. This action resulted in a disenrollment notice being issued on February 13, 2017, with an end date of your Essential Plan coverage as of February 28, 2017. You testified that you did not receive an email alert regarding the notice that your documentation was insufficient and you needed to submit additional information by February 27, 2017 and did not receive an email alert of the February 13, 2017 disenrollment notice, which it is noted was issued before the deadline for you to submit additional income documents.

You elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding any of the notices requesting additional income documentation to confirm your income and eligibility. There also is no evidence in your account documenting that any email alerts were sent to you regarding the need to submit documentation, nor is there any evidence that any email alerts failed such that the notices were sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit documentation of your income in order to confirm your eligibility for the Essential Plan.

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).

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the February 13, 2017 disenrollment notice, stating that you are no longer eligible for the Essential Plan because you failed to submit documentation is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan as of March 1, 2017, and to notify you accordingly.

## **Decision**

The February 13, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan as of March 1, 2017, and to notify you accordingly.

This Decision has no effect on any subsequent notices of eligibility or enrollment issued by NYSOH.

**Effective Date of this Decision:** June 9, 2017

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

NYSOH erred in terminating your Essential Plan effective February 28, 2017, without the proper notice.

Your case is being sent back to NYSOH to reinstate your coverage in your Essential Plan as of March 1, 2017. NYSOH will notify you once this has been done.

If applicable, you will be responsible to pay the monthly premium to the health plan directly for coverage to resume as of March 1, 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.

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

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).



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

### **Summary**

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).

The February 13, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan as of March 1, 2017, and to notify you accordingly.

This Decision has no effect on any subsequent notices of eligibility or enrollment issued by NYSOH.

NYSOH erred in terminating your Essential Plan effective February 28, 2017, without the proper notice.

Your case is being sent back to NYSOH to reinstate your coverage in your Essential Plan as of March 1, 2017. NYSOH will notify you once this has been done.

If applicable, you will be responsible to pay the monthly premium to the health plan directly for coverage to resume as of March 1, 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)

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).

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. 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.

### **אַײַדיש (Yiddish)**

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).

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.

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).