



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

Notice of Decision

Decision Date: May 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015982

[REDACTED]

Dear [REDACTED]

On May 24, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 2016 eligibility determination and disenrollment 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).

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DEPARTMENT OF HEALTH
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Decision

Decision Date: May 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015982

[REDACTED]

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 spouse's eligibility for the Essential Plan ended effective October 31, 2016?

Procedural History

On December 8, 2015, NYSOH issued a notice of eligibility determination stating that your spouse was eligible to enroll in the Essential Plan for a limited time, effective January 1, 2016. The notice further directed you to provide documentation confirming your income before March 6, 2016.

Also on December 8, 2015 NYSOH issued a notice confirming your spouse's enrollment in an Essential Plan, effective January 1, 2016.

On September 18, 2016, NYSOH issued an eligibility determination notice stating that your spouse was newly eligible to purchase a qualified health plan at full cost. The notice stated that she was 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 September 18, 2016, NYSOH issued a disenrollment notice stating that your spouse's enrollment in her Essential Plan would end as of October 31, 2016, because she was no longer eligible to remain in her plan.

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On December 19, 2016, you updated your application for financial assistance for your spouse.

On December 20, 2016, NYSOH issued a notice of eligibility determination stating that your spouse was eligible to enroll in the Essential Plan for a limited time, effective February 1, 2017. The notice further directed you to provide documentation confirming your income before March 19, 2017.

Also on December 20, 2016, NYSOH issue a notice of enrollment confirmation, based on your plan selection on December 19, 2016, stating that your spouse was enrolled in an Essential Plan effective February 1, 2017.

On February 17, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your spouse's Essential Plan coverage for the months of November 2016 through January 2017.

On April 7, 2017, NYSOH issued a notice of eligibility determination stating that your spouse was eligible for the Essential Plan, effective May 1, 2017.

On May 24, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) You testified that you were not aware that you were enrolled to receive email alerts regarding notices issued in your NYSOH account.
- 2) You testified that you cannot recall renewing your spouse's application for financial assistance for the 2016 year.
- 3) You testified that you did not receive any notices telling you that your spouse's eligibility was only conditional, and that you needed to provide income documentation.
- 4) You testified that you discovered that your spouse had been disenrolled from her coverage when your spouse was billed for a doctor's appointment that she had in November 2016.
- 5) You testified that you contacted your spouse's insurance plan and were told that her coverage had been ended by NYSOH.

- 6) You testified that your spouse's health insurance plan continued to accept your premium payments for her coverage after she was disenrolled.
- 7) You testified that you contacted NYSOH several times regarding the fact that your spouse's coverage had been discontinued, and were told by one of the representatives you spoke with that you had been sent an email about a notice requesting additional information.
- 8) You testified that you were not aware that NYSOH was sending you emails, and that you do not use your email very much because you receive a lot of junk email.
- 9) You testified that you searched your email inbox and found an email from NYSOH, but that you think that the email was from October or November 2016.
- 10) You testified that you requested NYSOH to begin sending you notices by regular mail, and your NYSOH account confirms this.
- 11) You testified that you were assured several times by NYSOH representatives that your spouse's coverage would be backdated once she was re-enrolled, but that it was not.
- 12) You updated the income information in your NYSOH account on December 19, 2016, and your spouse was found eligible for the Essential Plan for a limited time, effective February 1, 2017.
- 13) You submitted income documentation to NYSOH on March 31, 2017, and on April 7, 2017, NYSOH issued a notice of eligibility determination finding your spouse fully eligible for the Essential Plan, effective May 1, 2017.
- 14) You testified that you are seeking reinstatement of your spouse's Essential Plan coverage for the months of November and December 2016, and January 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 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

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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 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 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 December 8, 2015, you were advised that your spouse was eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income before March 6, 2016.

The record reflects that NYSOH did not receive the requested income documentation before the deadline.

However, you testified that, unbeknownst to you, you were enrolled to receive email alerts regarding notices in your NYSOH account. You credibly testified that you do not know why you were enrolled to receive email alerts, as you do not use your email because it is full of junk mail. You testified that, when you found out that your spouse's coverage was terminated, you called NYSOH to find out what happened. You testified that the representative you spoke with told you that you

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had been sent an email alerting you to the need to submit additional information. You testified that you went through your email inbox and found a message from NYSOH, but that it was from October or November 2016. You also testified that you did not receive any notice in the mail requesting income documentation. There is no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation, nor is there any evidence that the notice was 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 spouse's eligibility for the Essential Plan.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the September 18, 2016 eligibility determination and September 18, 2016 disenrollment notices, stating your spouse is no longer eligible for the Essential Plan because you failed to submit documentation, are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your spouse's coverage in her Essential Plan as of November 1, 2016, so that there is no gap in her coverage.

Decision

The September 18, 2016 notice of eligibility determination is RESCINDED.

The September 18, 2016 notice of disenrollment is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your spouse's coverage in her Essential Plan as of November 1, 2016, so that there is no gap in her coverage.

Effective Date of this Decision: May 26, 2017

How this Decision Affects Your Eligibility

NYSOH erred in terminating your spouse's Essential Plan coverage, effective October 31, 2016, without the proper notice.

Your case is being sent back to NYSOH to reinstate your spouse's coverage in her Essential Plan as of November 1, 2016 so that there is no gap in her 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.

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:

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NY State of Health Appeals
P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The September 18, 2016 notice of eligibility determination is RESCINDED.

The September 18, 2016 notice of disenrollment is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your spouse's coverage in her Essential Plan as of November 1, 2016, so that there is no gap in her coverage.

NYSOH erred in terminating your spouse's Essential Plan coverage, effective October 31, 2016, without the proper notice.

Your case is being sent back to NYSOH to reinstate your spouse's coverage in her Essential Plan as of November 1, 2016 so that there is no gap in her 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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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&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.

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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