



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

Notice of Decision

Decision Date: July 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016207

[REDACTED]

Dear [REDACTED],

On June 19, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 22, 2017 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 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: July 24, 2017

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000016207

[REDACTED]

Issue

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

Did NY State of Health properly determine you were no longer eligible to enroll in the Essential Plan, effective April 1, 2017?

Procedural History

On November 2, 2016, NYSOH received your updated application for financial assistance with health insurance.

On November 3, 2016, NYSOH issued a notice of eligibility determination stating you were eligible to enroll in the Essential Plan, for a limited time, effective December 1, 2016. The notice directed you to submit proof of your income by January 31, 2017 to confirm your eligibility or you might lose your insurance or receive less help paying for your coverage.

Also on November 3, 2016, NYSOH issued an enrollment notice confirming your enrollment in an Essential Plan, effective December 1, 2016.

On January 4, 2017, NYSOH issued a notice of eligibility determination, based on your January 3, 2017 updated application, stating you were eligible to enroll in the Essential Plan, for a limited time, effective February 1, 2017. The notice directed you to submit proof of your income by January 31, 2017 to confirm your eligibility or you might lose your insurance or receive less help paying for your coverage.

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On February 21, 2017, NYSOH systematically redetermined your eligibility.

On February 22, 2017, NYSOH issued an eligibility determination notice stating you were eligible to receive up to \$32.00 in advance payments of the premium tax credit (APTC), effective April 1, 2017. The notice indicated your eligibility was based on income information received from state and federal data sources.

Also on February 22, 2017, NYSOH issued a notice of disenrollment stating your Essential Plan coverage would end on March 31, 2017, because you were no longer eligible to enroll in the plan.

On February 24, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as you were not eligible to enroll in the Essential Plan.

On March 1, 2017, you were granted Aid to Continue in an Essential Plan and you were reenrolled in your Essential Plan, effective April 1, 2017.

On March 24, 2017, NYSOH systematically redetermined your eligibility.

On March 25, 2017, NYSOH issued an eligibility determination stating you were fully eligible to enroll in the Essential Plan, effective May 1, 2017.

Also on March 25, 2017, NYSOH issued an enrollment notice confirming your enrollment in an Essential Plan, effective April 1, 2017.

On June 19, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to allow you to submit supporting documents.

On July 5, 2017 NYSOH received the requested documentation and it was incorporated into the record as Appellant's Exhibit [REDACTED], the record closed thereafter.

Findings of Fact

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

- 1) On November 3, 2016, you submitted an updated application indicating your annual income was \$27,997.32, consisting of \$1,076.82 in gross income you earned biweekly from your employment.
- 2) According to your account, NYSOH was unable to verify the income information listed in that application. You were determined conditionally eligible to enroll in the Essential Plan, effective December 1, 2016. The

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- eligibility determination notice issued November 3, 2016 directed you to submit proof of your income to confirm your eligibility by January 31, 2017.
- 3) You selected an Essential Plan for enrollment on November 2, 2016 and coverage through that plan became effective December 1, 2016.
 - 4) On January 3, 2017, you submitted an updated application for health insurance listing the same income information as the previous application.
 - 5) In the eligibility determination notice issued January 4, 2016, NYSOH again directed you to submit proof of your income by January 31, 2017 to confirm your eligibility to remain enrolled in the Essential Plan.
 - 6) According to your account, on February 21, 2017, NYSOH systematically redetermined your eligibility for financial assistance with health insurance based on undisclosed income information received from state and federal data sources and determined you were eligible to receive up to \$32.00 per month in APTC, effective March 31, 2017.
 - 7) You were disenrolled from your Essential Plan, effective March 31, 2017, because you were no longer eligible for the Essential Plan based on your new eligibility.
 - 8) You appealed the eligibility determination insofar as you were no longer eligible to enroll in the Essential Plan.
 - 9) Your account confirms, that you were granted Aid to Continue on March 1, 2017 and you were reenrolled in your Essential Plan, effective April 1, 2017, pending the outcome of your appeal.
 - 10) According to your account, documents were posted to your account on March 17, 2017 and consisted of two biweekly paystubs with check dates of December 9, 2016 and December 23, 2016, both in the gross amount of \$1,076.92. The Documents were stamped "Jan 30 2017", included an envelope addressed to NYSOH with a postmark dated "26 Jan 2017," and was stamped "RESCAN Feb 16 2017" on the first page.
 - 11) According to your account, the paystubs were verified by NYSOH on March 24, 2017 and NYSOH determined you to be fully eligible to enroll in the Essential Plan, effective May 1, 2017.
 - 12) You testified you were making \$40,000.00 a year in 2016, but you began working part-time for the same employer in December 2016, so your income decreased. You testified you earned \$1,076.82 gross biweekly once you started working part-time.

- 13) You testified that your income has decreased since April 2017, because your annual salary was reduced to \$20,000.00. You further testified that you have begun working one day a week for another one of your boss's companies which pays \$3,000.00 annually.
- 14) On July 5, 2017, NYSOH received the following income documentation evidencing the income change you testified to:
 - a. Five weekly paystubs from [REDACTED] all in the gross amount of \$60.00 for check dates of April 28, 2017, May 12, 2017, May 26, 2017, June 9, 2017, and June 23, 2017.
 - b. Four biweekly paystubs from [REDACTED] all in the gross amount of \$769.24 for check dates of April 14, 2017, April 28, 2017, May 12, 2017, and May 26, 2017.
- 15) According to your account, NYSOH invalidated the income documentation you submitted on July 5, 2017, because you submitted paystubs from an employer not attested to in your application. You were determined conditionally eligible for the Essential Plan, effective August 1, 2017 and directed to submit proof of your income by October 3, 2017 to confirm your eligibility.
- 16) You testified, and your applications indicate, you will not be taking any deductions on your 2017 tax return.
- 17) Your applications indicate you live in [REDACTED].
- 18) You testified, and your applications indicate, you will file your 2017 tax return with a tax filing status of head of household and you will claim one dependent on that tax return.
- 19) You testified this review only concerns your eligibility for health insurance, not your child's.

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

Applicable Law and Regulations

Verification Process

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 (45 CFR §155.320(c)(1)(i)). If NYSOH cannot verify the income

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information required to determine eligibility it must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f)).

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

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 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).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2016 FPL, which is \$16,020.00 for a two-person household (81 Federal Register 4036).

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

The Essential Plan is considered minimum essential coverage therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

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Legal Analysis

The issue under review is whether NYSOH properly determined you were no longer eligible to enroll in the Essential Plan, effective April 1, 2017.

You submitted an updated application for health insurance on November 3, 2016, indicating your annual income was \$27,997.32, consisting of \$1,076.82 in gross biweekly earnings from your employment. According to your account, NYSOH was unable to verify the income information listed in that account and you were determined conditionally eligible to enroll in the Essential Plan, effective December 1, 2016, pending receipt of documentation sufficient to confirm the income information in your application. You submitted an updated application on January 3, 2017 listing the same income information as the previous application. According to your account, NYSOH was still unable to verify the income information listed in that application.

Pursuant to the above cited regulations, 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 it must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

The eligibility determination notice issued by NYSOH on January 4, 2017 indicated your eligibility to enroll in the Essential Plan was only conditional and directed to you to submit proof of your income by January 31, 2017 to confirm your eligibility or you might lose your insurance or receive less help paying for your coverage. You testified you submitted documentation of your income by the January 31, 2017 deadline, however, no such documentation was posted to your account by the due date.

On February 21, 2017, NYSOH systematically redetermined your eligibility for financial assistance with health insurance based on income information received from state and federal data sources, because documentation to confirm the income information listed in your January 3, 2017 application had not been posted to your account. According to the eligibility determination notice issued February 22, 2017, NYSOH determined you were eligible to receive up to \$32.00 per month in APTC, based on the undisclosed income information received from data sources, effective March 31, 2017. As a result of this new eligibility, you were disenrolled from your Essential Plan, effective March 31, 2017. You appealed the February 22, 2017 eligibility determination insofar as you were no longer eligible for the Essential Plan.

Notwithstanding the fact that no income documentation was posted to your account by the January 31, 2017 deadline, NYSOH posted documentation to

your account on March 17, 2017 that establishes the evidence was actually received prior to the January 31, 2017 deadline.

The documentation posted to your account on March 17, 2017 consisted of two biweekly paystubs with check dates of December 9, 2016 and December 23, 2016, both in the gross amount of \$1,076.92. The Documents were stamped "Jan 30 2017" included a copy of an envelope addressed to NYSOH with a postmark dated "26 Jan 2017," and was stamped on the first page "RESCAN Feb 16 2017." Based on the dates of the paystubs, the date stamps on the documents, and the postmark on the copy of the envelope, it is concluded these documents were mailed on January 26, 2017, received by NYSOH on January 30, 2017, and rescanned to your account on February 16, 2017. Accordingly, this income documentation was submitted prior to the deadline to confirm your eligibility to remain enrolled in the Essential Plan and should have been considered at that time. Any delay in posting these documents to your account were clearly the result of an error on the part of NYSOH.

Your account confirms that NYSOH verified the December 2016 paystubs on March 24, 2017, indicating the documentation confirmed the income information listed in your January 3, 2017 application. As such, you were determined fully eligible to enroll in the Essential Plan, effective May 1, 2017.

Because NYSOH received documentation on January 30, 2017 that was sufficient to verify the income information listed in your January 3, 2017 application, it is concluded it was improper for NYSOH to base its February 22, 2017 eligibility determination on information obtained from data sources, instead of the documentary evidence you timely submitted.

Therefore, the February 22, 2017 eligibility determination notice stating you were eligible to receive up to \$32.00 per month in APTC, effective March 31, 2017, based on income information obtained from data sources, is not supported by the record and must be RESCINDED.

Additionally, the February 22, 2017 disenrollment notice is similarly RESCINDED, as it is no longer supported by the record.

It is noted that you reenrolled in your Essential Plan, effective April 1, 2017, pursuant to a grant of Aid to Continue.

Your case is RETURNED to NYSOH to fully reinstate you in your Essential Plan, effective April 1, 2017.

It is further noted that you testified you have had a reduction in income since April 2017 and you submitted paystubs evidencing the change in your biweekly pay rate. However, you testified you have begun working for another one of your employer's companies one day a week and that you are paid separately for this

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work. You submitted paystubs from that new position, but, according to your account, NYSOH invalidated this documentation because the paystubs were from an employer not attested to in your application. It is further noted that the weekly paystubs you submitted from the new position were not consecutive as there were several missing and, therefore, they are not sufficient evidence of your current income. As a result, you were again determined conditionally eligible for the Essential Plan with additional income information required. Accordingly, you are reminded of your duty to contact NYSOH to update your application with accurate income information and, if necessary, provide 30 days of consecutive current paystubs to verify that information.

Decision

The February 22, 2017 eligibility determination notice is RESCINDED.

The February 22, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to fully reinstate you in your Essential Plan, effective April 1, 2017.

Effective Date of this Decision: July 24, 2017

How this Decision Affects Your Eligibility

You should not have been disenrolled from your Essential Plan on March 31, 2017.

Your case is being sent back to NYSOH to ensure you are fully enrolled in your Essential Plan, effective April 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 must be done within four months of the Decision Date, which appears on the first page of this Decision.

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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

The February 22, 2017 eligibility determination notice is RESCINDED.

The February 22, 2017 disenrollment notice is RESCINDED.

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Your case is RETURNED to NYSOH to fully reinstate you in your Essential Plan, effective April 1, 2017.

You should not have been disenrolled from your Essential Plan on March 31, 2017.

Legal Authority

We are sending you this notice 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 مجانًا.

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&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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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