



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

## Notice of Decision

Decision Date: July 17, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000016837

[REDACTED]

Dear [REDACTED],

On July 12, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 28, 2017, eligibility redetermination 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: July 17, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000016837

[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 [REDACTED] was no longer eligible to enroll in a qualified health plan through NYSOH, effective March 1, 2017?

## Procedural History

On November 23, 2016, NYSOH received your [REDACTED] initial application for health insurance.

On November 24, 2016, NYSOH issued a notice of eligibility determination stating that your [REDACTED] was conditionally eligible to purchase a qualified health plan at full cost, effective January 1, 2017. The notice further directed you to provide documentation confirming [REDACTED] citizenship status before February 21, 2017, or [REDACTED] eligibility for coverage might end.

On December 9, 2016, NYSOH issued a notice confirming [REDACTED] enrollment in bronze level qualified health plan, effective January 1, 2017.

NYSOH did not receive the requested documentation before February 21, 2017.

On February 27, 2017, NYSOH redetermined your [REDACTED] eligibility for health insurance.

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).

On February 28, 2017, NYSOH issued an eligibility determination notice stating that your [REDACTED] was no longer eligible for health insurance through NYSOH. The notice stated this was because you had not confirmed [REDACTED] citizenship status within the required timeframe. [REDACTED] eligibility for coverage ended effective March 1, 2017.

Also on February 28, 2017, NYSOH issued a cancellation notice stating your spouse's coverage was canceled effective February 28, 2017. The notice stated this was because [REDACTED] was no longer eligible to enroll in health insurance through NYSOH.

On March 14, 2017, NYSOH issued an eligibility determination notice stating your [REDACTED] was conditionally eligible to purchase a qualified health plan at full cost, effective April 1, 2017. The notice also stated your [REDACTED] does not qualify to select a health plan outside of the open enrollment period for 2017.

On March 15, 2017, you spoke to NYSOH's Account Review Unit and appealed the February 28, 2017, eligibility determination insofar as it ended your [REDACTED] enrollment in a qualified health plan on March 1, 2017.

On March 18, 2017, NYSOH issued a notice stating your [REDACTED] was eligible for a qualified health plan for a limited time. [REDACTED] was granted Aid to Continue until a decision was made on [REDACTED] appeal. The eligibility was effective March 1, 2017.

On March 18, 2017, NYSOH issued an enrollment notice confirming your [REDACTED] enrollment in a bronze level qualified health plan.

Your telephone hearing was scheduled to take place on June 20, 2017.

On June 20, 2017, a Hearing Officer contacted you. During the call you stated you did not receive the notice of hearing for that day's hearing, that you were traveling abroad and would not be able to proceed with a hearing over the phone. The Hearing Officer granted you and adjournment to July 12, 2017.

On July 12, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You waived formal notice to a notice of telephone hearing to proceed with your hearing. 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, and the record reflects, that you receive all of your notices from NYSOH by electronic mail.

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- 2) You testified that you did not receive any electronic alerts notifying you of any notice in your NYSOH account stating that your [REDACTED] eligibility was only conditional and that you needed to provide documentation of [REDACTED] citizenship status by February 21, 2017.
- 3) There is no evidence in your NYSOH account showing an e-mail notification had been sent to you.
- 4) You testified you were unaware you were signed up to receive electronic notices from NYSOH.
- 5) You testified that you did not know that you needed to submit documentation of your [REDACTED] citizenship status until [REDACTED] had attempted to use the coverage in March, 2017.
- 6) On March 19, 2017, NYSOH received documentation of your [REDACTED] citizenship status in the form of [REDACTED] U.S. Passport. See Document: [REDACTED].
- 7) You testified your spouse is a naturalized U.S. citizen, and [REDACTED] was naturalized in August, 2013.
- 8) You testified that you are seeking reinstatement for your [REDACTED] in [REDACTED] qualified health plan as of March 1, 2017.
- 9) You resided in [REDACTED].

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

## **Applicable Law and Regulations**

### Citizenship and Immigration Status

To enroll in a qualified health plan through NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

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If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5-day period. (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or 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 (45 CFR §155.230(d); 42 CFR §435.918(b)(4)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your [REDACTED] was no longer eligible to enroll in a qualified health plan through NYSOH, effective March 1, 2017.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that their citizenship status is satisfactory.

If NYSOH cannot verify an individual's citizenship status, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency. For purposes of verifying citizenship, notice is considered received 5 days after the date on the notice.

In the eligibility determination issued on November 24, 2016, you were advised that your [REDACTED] eligibility was only conditional, and that you needed to confirm [REDACTED] citizenship status before February 21, 2017 or [REDACTED] coverage might end.

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

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the eligibility determination notice, which directed you that your [REDACTED] eligibility was only conditional and that you needed to submit documentation to confirm [REDACTED] citizenship status. There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit documentation of your [REDACTED] citizenship status.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the February 28, 2017, eligibility redetermination notice stating that your [REDACTED] was no longer eligible to remain enrolled in [REDACTED] qualified health plan for failure to submit citizenship documentation is RESCINDED.

Your case is RETURNED to NYSOH to assist you in reenrolling your [REDACTED] into a health plan for coverage with an effective date of March 1, 2017, if you so choose. You will be responsible for any unpaid premiums if you choose to backdate coverage.

## **Decision**

The February 28, 2017, eligibility redetermination notice is RESCINDED.

Your case is RETURNED to NYSOH to assist you in reenrolling your spouse into a health plan for coverage with an effective date of March 1, 2017, if you so choose. You will be responsible for any unpaid premiums if you choose to backdate coverage.

**Effective Date of this Decision:** July 17, 2017

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

NYSOH erred in disenrolling your [REDACTED] from [REDACTED] qualified health plan effective March 1, 2017, without the proper notice.

Your case is being sent back to NYSOH to assist you in reenrolling him into a health plan for coverage as of March 1, 2017, if you so choose.

## **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:

NY State of Health Appeals

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P.O. Box 11729  
Albany, NY 12211

- By fax: 1-855-900-5557

## Summary

The February 28, 2017, eligibility redetermination notice is RESCINDED.

Your case is RETURNED to NYSOH to assist you in reenrolling your spouse into a health plan for coverage with an effective date of March 1, 2017, if you so choose. You will be responsible for any unpaid premiums if you choose to backdate coverage.

NYSOH erred in disenrolling your [REDACTED] from [REDACTED] qualified health plan effective March 1, 2017, without the proper notice.

Your case is being sent back to NYSOH to assist you in reenrolling [REDACTED] into a health plan for coverage as of March 1, 2017, if you so choose.

## 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।

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).

## **Français (French)**

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

## **हिंदी (Hindi)**

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

## **日本語 (Japanese)**

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

## **नेपाली (Nepali)**

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

## **Polski (Polish)**

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

## **Twi (Twi)**

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&btumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

## **(Urdu) اردو**

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

## **Tiếng Việt (Vietnamese)**

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

## **אידיש (Yiddish)**

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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).