



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

Notice of Decision

Decision Date: August 1, 2017

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000016838

[REDACTED]

Dear [REDACTED]

On June 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 16, 2017 eligibility determination and disenrollment 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: August 1, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016838

[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 eligibility for and enrollment in the Essential Plan ended effective February 28, 2017?

Procedural History

On November 10, 2016, NYSOH received your application for financial assistance.

On November 11, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan for a limited time, effective December 1, 2016. The notice requested that you provide proof of your income by February 8, 2017.

On November 11, 2016, NYSOH issued an enrollment notice confirming your enrollment on November 10, 2016, in an Essential Plan starting December 1, 2016.

NYSOH did not receive the requested documentation by February 8, 2017.

On February 16, 2017, NYSOH issued an eligibility determination stating your eligibility was redetermined on February 15, 2017. The notice stated you were eligible to purchase a qualified health plan at full cost, effective March 1, 2017. The notice stated this was because NYSOH did not receive the income documentation needed to verify the income listed in your application.

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On February 16, 2017, NYSOH issued a cancellation notice stating your enrollment in your Essential Plan would end on February 28, 2017. The notice stated this was because you were no longer eligible to enroll in the Essential Plan.

On February 21, 2017, NYSOH received your application for financial assistance with your health insurance.

On February 22, 2017, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income information you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit income documentation for your household by March 8, 2017.

On March 2, 2017, NYSOH received your updated application for financial assistance.

On March 3, 2017, NYSOH issued an eligibility determination notice stating you were eligible to enroll in the Essential Plan for a limited time, effective April 1, 2017. The notice stated your eligibility was based on the condition that you provide proof of your income by May 31, 2017.

On March 3, 2017, NYSOH issued an enrollment notice confirming your enrollment in an Essential Plan on March 2, 2017, with a start date of April 1, 2017.

On March 5, 2017, NYSOH received your income documentation.

On March 13, 2017, NYSOH determined your income documentation was invalid.

On March 14, 2017, NYSOH issued a notice stating the documentation it reviewed did not confirm the information in your application. The notice requested proof of your household income by May 31, 2017.

On March 15, 2017, you contacted the NYSOH Account Review Unit and requested an appeal of the start date of your Essential Plan, requesting that it begin March 1, 2017.

On June 20, 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

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

- 1) You testified, and your NYSOH account confirms, that you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you were aware of the need to provide income documentation by February 8, 2017, not through a notice, but because your application counselor told you that you needed to provide proof of your income after meeting with her.
- 3) You testified and submitted a letter written by yourself dated February 22, 2017. That you met with your application counselor on [REDACTED] and provided three paystubs at that meeting. You testified that you were asked to provide a final paystub for the week ending November 4, 2016.
- 4) You testified you provided the missing paystub to your application counselor via e-mail that same day on November 10, 2016. You provided a copy of an e-mail to your application counselor dated November 10, 2016 at 7:20 pm in which you state "here is this week's pay stub." with an attached pdf.
- 5) The record supports no income documentation was received by NYSOH before March 5, 2017.
- 6) You testified that you did not know that you needed to submit additional documentation of your income until you had been disenrolled from your Essential Plan effective February 28, 2017.
- 7) You updated the information in your NYSOH account on February 21, 2017, and again on March 2, 2017 and enrolled back into your health plan on March 2, 2017, for an April 1, 2017 start date.
- 8) You testified that you are seeking reinstatement of your Essential Plan for the month of March, 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

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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 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)).

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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 11, 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 8, 2017.

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

You testified that you were aware of the request to provide your income documentation based on a conversation with your application counselor on November 10, 2016. At that meeting you testified you brought three paystubs, and were told that you needed to provide an additional paystub. You then e-mailed a copy of that paystub later that same day in the evening.

In support of your position you provided a copy of an e-mail to your application counselor dated November 10, 2016 at 7:20 pm in which you state "here is this week's pay stub." With an attached pdf.

The record shows no income documentation was provided to NYSOH or uploaded to your account showing paystubs prior to the February 8, 2017 deadline. You were subsequently disenrolled from your Essential Plan, effective February 28, 2017, and were unable to reenroll until March 2, 2017.

However, you credibly testified and provided supporting documentation that you complied with NYSOH's request for proof of your income and that your disenrollment was due to the inaction of your application counselor.

Therefore, the February 16, 2017 eligibility determination and disenrollment notices, stating that you are no longer eligible for the Essential Plan effective February 28, 2017 because you failed to submit documentation are **RESCINDED**.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan for the month of March 2017.

Decision

The February 16, 2017 notice of eligibility determination is RESCINDED.

The February 16, 2017 notice of disenrollment is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan for the month of March 2017.

Effective Date of this Decision: August 1, 2017

How this Decision Affects Your Eligibility

Your Essential Plan was improperly terminated due to the inaction of your Application Counselor.

Your case is being sent back to NYSOH to reinstate your coverage in your Essential Plan for the month of March 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.

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:

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).

- By calling the Customer Service Center at 1-800-318-259
- 6
- 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 16, 2017 notice of eligibility determination is RESCINDED.

The February 16, 2017 notice of disenrollment is RESCINDED.

Your Essential Plan was improperly terminated due to the inaction of your Application Counselor.

Your case is being sent back to NYSOH to reinstate your coverage in your Essential Plan for the month of March 2017.

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Legal Authority

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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&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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