



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

Notice of Decision

Decision Date: August 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017427

[REDACTED]

Dear [REDACTED],

On July 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health’s March 14, 2017 eligibility determination and disenrollment notices, and May 12, 2017 enrollment 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: August 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017427



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 the eligibility of you and your spouse for the Essential Plan ended effective March 31, 2017?

Did NYSOH properly determine that you and your spouse were properly reenrolled in the Essential Plan, effective June 1, 2017?

Procedural History

On December 7, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse 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 the income of you and your spouse by March 6, 2017.

On December 10, 2016, NYSOH issued a notice confirming the enrollment of you and your spouse in an Essential Plan, effective January 1, 2017

On March 14, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a qualified health plan and receive and receive an advance premium tax credit (APTC) of up to \$89.00 per month. The notice stated that you and your spouse were no longer eligible to enroll in the Essential Plan as of March 31, 2017. This eligibility was effective April 1, 2017.

On March 14, 2017, NYSOH issued a disenrollment notice stating that the enrollment of you and your spouse in the Essential Plan would end as of March 31, 2017, because you were no longer eligible to remain in your plan.

On March 27, 2017, you updated your application for financial assistance.

On March 28, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to enroll in the Essential Plan, effective May 1, 2017.

Also on March 28, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of the Essential Plan for you and your spouse, March 31, 2017.

On March 28, 2017 and March 29, 2017, NYSOH issued enrollment notices, each advising you to select an Essential Plan for you and your spouse.

On May 12, 2017, NYSOH issued an enrollment notice confirming your selection of an Essential Plan for you and your spouse as of May 11, 2017. The notice confirmed that the Essential Plan coverage for you and your spouse would begin effective June 1, 2017.

On July 17, 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, and your NYSOH account confirms, that you elected to receive all your notices from NYSOH by electronic mail.
- 2) You testified that you received an electronic alert notifying you of a notice in your NYSOH account on December 6, 2016. The corresponding notice in your NYSOH account advised you that the Essential Plan eligibility for you and your spouse was only conditional and that you needed to provide documentation of your income by March 6, 2017.
- 3) You testified that you did not know that you needed to submit documentation of your income until you and your spouse had been disenrolled from your Essential Plan coverage.

- 4) Your NYSOH account indicates that on March 13, 2017, your eligibility was redetermined by NYSOH, and you and your spouse were found no longer eligible for the Essential Plan as of March 31, 2017. Based on that redetermination, you and your spouse were found eligible for an APTC of up to \$89.00 per month, effective April 1, 2017.
- 5) You updated the income information in your NYSOH account on March 27, 2017.
- 6) Based on the information contained in the March 27, 2017 application update, you and your spouse were found eligible for the Essential Plan, effective May 1, 2017.
- 7) You testified, and your NYSOH account reflects, that you spoke with an NYSOH representative on March 28, 2017 and requested to enroll you and your spouse into an Essential Plan on that date. You further testified that because your request was not processed, the enrollment of you and your spouse was delayed as a result.
- 8) You testified, and your NYSOH account reflects, that you selected the Essential Plan for you and your spouse's coverage as May 11, 2017.
- 9) You testified that you are seeking reinstatement of your Essential Plan for the months of April and May 2017 since you and your spouse had incurred medical expenses during those months.

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).

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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 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 first issue under review is whether NYSOH properly determined that the eligibility of you and your spouse for the Essential Plan ended effective March 31, 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 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 7, 2016, you were advised that you and your spouse were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income by March 6, 2017.

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

You testified that you elected to receive alerts regarding notices from NYSOH electronically. You credibly that you received an electronic alert notifying you of a notice in your NYSOH account on December 6, 2016. The corresponding notice in your account advised you that the eligibility of you and your spouse was only conditional and that you needed to provide documentation of your income.

Therefore, NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation.

Accordingly, the eligibility of you and your spouse for the Essential Plan terminated as of March 31, 2017 because you did not submit documentation and did not adequately demonstrate that you could not provide documentation to confirm your income.

Therefore, the March 14, 2017 eligibility determination and disenrollment notices are **AFFIRMED**.

The second issue is whether NYSOH properly determined that the reenrollment of you and your spouse in the Essential Plan was effective June 1, 2017.

You testified, and your account confirms, that you updated your NYSOH application on March 27, 2017. Based on that application update, you and your spouse were found eligible for the Essential Plan, effective May 1, 2017.

You credibly testified, and your NYSOH account reflects, that you spoke with an NYSOH representative on March 28, 2017 and requested to enroll you and your spouse into an Essential Plan on that date. You further testified that because your request was not processed, the enrollment of you and your spouse was delayed until May 11, 2017.

Since the record reflects that you took the necessary steps to enroll both you and your spouse in an Essential Plan on March 28, 2017, we may reasonably infer that you would have selected that Essential Plan on that date.

A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

Accordingly, the May 12, 2017 enrollment notice is MODIFIED to state that the Essential Plan coverage for you and your spouse began effective May 1, 2017.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan as of May 1, 2017. Please note, however, that you will be responsible for any premium amounts due because of this reinstatement of coverage.

Decision

The March 14, 2017 eligibility determination and disenrollment notices are AFFIRMED.

The May 12, 2017 enrollment notice is MODIFIED to state that the Essential Plan coverage for you and your spouse began effective May 1, 2017.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan as of May 1, 2017. Please note, however, that you will be responsible for any premium amounts due because of this reinstatement of coverage.

Effective Date of this Decision: August 17, 2017

How this Decision Affects Your Eligibility

The Essential Plan coverage of you and your spouse was properly terminated effective March 31, 2017.

Your case is being sent back to NYSOH to reinstate your coverage in your Essential Plan as of May 1, 2017.

Please note, however, that you will be responsible for any premium amounts due because of this reinstatement of 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

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).

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 March 14, 2017 eligibility determination and disenrollment notices are **AFFIRMED**.

The May 12, 2017 enrollment notice is **MODIFIED** to state that the Essential Plan coverage for you and your spouse began effective May 1, 2017.

The Essential Plan coverage of you and your spouse was properly terminated effective March 31, 2017.

Your case is being sent back to NYSOH to reinstate your coverage in your Essential Plan as of May 1, 2017.

Please note, however, that you will be responsible for any premium amounts due because of this reinstatement of 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 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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