



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

### Notice of Decision

Decision Date: September 12, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000017443



Dear [REDACTED],

On August 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 15, 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.

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### Decision

Decision Date: September 12, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000017443



### Issue

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

Did NY State of Health properly determine that your eligibility for financial assistance and enrollment in health insurance ended effective December 31, 2016?

### Procedural History

On September 9, 2016, you updated your application for health insurance and submitted one bi-weekly paystub, dated September 1, 2016 (see Document [REDACTED]).

On September 10, 2016, NYSOH issued an eligibility determination notice, based on your September 9, 2016 application, stating that you were eligible to enroll in the Essential Plan for a limited time with a monthly premium of \$20.00, effective October 1, 2016. The notice further instructed you to provide documentation confirming your income before December 8, 2016.

Also on September 10, 2016, NYSOH issued a plan enrollment notice, based on your September 9, 2016 plan selection, confirming your enrollment in an Essential Plan, effective October 1, 2016.

On September 16, 2016, NYSOH invalidated your September 9, 2016 income submission as insufficient.

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On September 17, 2016, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. The notice further stated that you needed to supply additional proof of your household income before December 8, 2016.

On November 29, 2016, you updated your application for health insurance and submitted three consecutive bi-weekly paystubs, with check dates of October 19, 2016, November 2, 2016, and November 16, 2016 (see Documents [REDACTED]).

On November 30, 2016, NYSOH issued an eligibility determination notice, based on your updated November 29, 2016 application, stating that you were eligible to enroll in the Essential Plan for a limited time with a monthly premium of \$20.00, effective January 1, 2017. The notice further instructed you to provide documentation confirming your income before December 8, 2016.

Also on November 30, 2016, NYSOH issued a plan enrollment notice, based on your November 29, 2016 updated plan selection, confirming your enrollment in an Essential Plan, effective October 1, 2016.

On December 15, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to enroll in a qualified health plan at full cost, effective January 1, 2017. The notice further stated that you did not qualify for Medicaid, Child Health Plus, or the Essential Plan. You are not eligible to receive the advance payment of the premium tax credit or cost-sharing reductions to help pay for the cost of coverage through NYSOH because it had not received the income documentation needed to verify the income listed in your application, the date to send in this information has passed, and your eligibility could not be determined without this information. The notice also directed you to pick a health plan.

Also on December 15, 2016, NYSOH issued a disenrollment notice stating that your Essential Plan coverage would end effective December 31, 2016, because you were no longer eligible for that plan.

On December 16, 2016, NYSOH invalidated the income documentation you submitted on November 29, 2016.

On December 17, 2016, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. The notice instructed you to supply additional proof of your household income before January 28, 2017.

On December 19, 2016, NYSOH issued a notice stating that, although you have submitted documentation to resolve the inconsistency of your household's

income, that documentation was insufficient. The notice further stated that you needed to supply additional proof of your income.

On January 6, 2017, NYSOH issued an eligibility determination notice, based on your January 5, 2017 updated application, stating that you were eligible to enroll in the Essential Plan with a monthly premium of \$20.00, effective February 1, 2017.

Also on January 6, 2017, NYSOH issued a plan enrollment notice, based on your January 5, 2017 plan selection, confirming your enrollment in an Essential Plan, effective February 1, 2017.

On March 28, 2017, you spoke to NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as your Essential Plan started on February 1, 2017, and not January 1, 2017.

On August 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) According to your NYSOH account, you were found conditionally eligible for the Essential Plan as of October 1, 2016, pending submittal and verification of documentary proof of your household income.
- 2) You testified that you received notice that your eligibility was only conditional and that you needed to provide documentation of your household's income before December 8, 2017.
- 3) You testified that you sent documentation before the deadline of December 8, 2017, and should have coverage as of January 1, 2017.
- 4) According to your NYSOH account, on September 9, 2016, you updated your application for health insurance and submitted one bi-weekly paystub, dated September 1, 2016, which was subsequently invalidated by NYSOH as insufficient on September 16, 2016 (see Document [REDACTED]).
- 5) According to your NYSOH account, on November 29, 2016, you submitted three consecutive bi-weekly paystubs with check dates of October 19, 2016, November 2, 2016, and November 16, 2016. Your NYSOH account indicates that these paystubs were invalidated by NYSOH as outdated when reviewed by NYSOH on December 16, 2016, in that, "[r]equired

documentation is 30 days' worth of income on pay stubs dated after 11/14/16..." (see Documents [REDACTED]).

- 6) These documents show that, as a bi-weekly wage earner, you would have received your next bi-weekly paystub on November 30, 2016.
- 7) Your NYSOH account indicates that on December 14, 2016, your eligibility was systematically run and you were found no longer eligible for financial assistance as of January 1, 2017, and were dis-enrolled from your Essential Plan as of December 31, 2016. The basis for your ineligibility was that you had not provided sufficient proof of your household income by the required deadline.
- 8) On January 5, 2017, you updated your application for financial assistance and were found fully eligible for the Essential Plan as of February 1, 2017.
- 9) You testified that you wanted your enrollment in an Essential Plan to begin on January 1, 2017, because you have medical bills from that month.

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)).

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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 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 re-determine 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)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your eligibility for financial assistance and enrollment in the Essential Plan ended effective December 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 is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that their income information is accurate.

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.

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In the eligibility determination notices issued on September 10, 2016 and November 30, 2016, you were advised that you were eligible for the Essential Plan for a limited time, and that you needed to confirm your income and with documentary proof before December 8, 2016.

You testified that you did receive the notices from NYSOH telling you that you needed to provide proof of income to confirm your eligibility. In fact, the record reflects that on September 9, 2016 and November 29, 2016, you submitted proof of your household income, including a single bi-weekly paystub and two consecutive bi-weekly paystubs dated November 2, 2016, and November 16, 2016, respectively.

Although your September 9, 2016 submittal was insufficient to ascertain your income, it is unclear as to why your November 29, 2016 submittal was invalidated by NYSOH, as these documents were sufficient to ascertain your income. Moreover, the November 29, 2016 submission was timely made before the December 8, 2016 deadline and the paystubs were not outdated at the time they were submitted as you would have received your next paystub, as a bi-weekly wage earner, on November 30, 2016, the day after your November 29, 2016 submission.

On December 14, 2016, your eligibility was systematically run and you were found no longer eligible for financial assistance as of January 1, 2017, and were thus, dis-enrolled from your Essential Plan as of December 31, 2016. The basis for your ineligibility was that you had not provided sufficient proof of your household income by the required deadline.

Since your income was ascertainable as of the November 29, 2016 submission and that submission was timely, your eligibility for the Essential Plan should not have been terminated as of December 31, 2016.

Therefore, the December 15, 2016 eligibility determination and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your coverage in your Essential Plan effective January 1, 2017.

## **Decision**

The December 15, 2016 eligibility determination and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your coverage in your Essential Plan, effective January 1, 2017, and to notify you accordingly.

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).



**Effective Date of this Decision:** September 12, 2017

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

NYSOH erred in terminating your Essential Plan effective December 31, 2016.

Your case is being sent back to NYSOH to reinstate your coverage in your Essential Plan effective January 1, 2017. NYSOH will notify you once this has been achieved.

You will be responsible for any monthly premium owed for the months of reinstatement.

## **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

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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**

Accordingly, the December 15, 2016 eligibility redetermination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan, effective January 1, 2017.

NYSOH erred in terminating your Essential Plan effective December 31, 2016.

Your case is being sent back to NYSOH to reinstate your coverage in your Essential Plan effective January 1, 2017. NYSOH will notify you once this has been achieved.

You will be responsible for any monthly premium owed for the months of reinstatement.

### **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 مجانًا.

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## **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।

## **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. yebetumi ama wo obi a okyerε kasa a woka no ase ama wo kwa a wontua hwee.

## **(Urdu) اردو**

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

## **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.

## **אַײַדיש (Yiddish)**

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

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