



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: AP000000017650

[REDACTED]

Dear [REDACTED]

On July 14, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 30, 2017 eligibility determination and plan enrollment 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.

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  
P.O. Box 11729  
Albany, NY 12211

## Decision

Decision Date: August 1, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000017650

[REDACTED]

## Issue

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

Did NY State of Health properly determine that you and your spouse's eligibility for and enrollment in your Essential Plan was effective May 1, 2017?

## Procedural History

On March 1, 2016, NY State of Health (NYSOH) received your updated application for financial assistance with health insurance.

On March 2, 2016, NYSOH issued an eligibility determination notice, based on your March 1, 2016 application, stating that you and your spouse were eligible to enroll in the Essential Plan, effective April 1, 2016.

Also on March 2, 2016, NYSOH issued an enrollment confirmation notice, confirming your and your spouse's selection of an Essential Plan, with an enrollment start date of April 1, 2016.

On February 2, 2017, NYSOH issued a renewal notice stating that it was time for you and your spouse to renew your health insurance. This notice further stated that NYSOH did not have enough information from state and federal data sources to determine if you and your spouse could get help paying for your health insurance, or what coverage you and your spouse could have next year. This notice stating that you must return to your NYSOH account between February 16, 2017 and March 15, 2017 to complete your renewal.

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No updates were made to your NYSOH account by March 15, 2017.

On March 16, 2017, NYSOH ran an updated application on your NYSOH account.

On March 17, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in a full cost qualified health plan, effective April 1, 2017. This notice stated this was because you and your spouse did not complete your renewal within the required timeframe.

Also on March 17, 2017, NYSOH issued a plan disenrollment notice terminating your and your spouse's enrollment in the Essential Plan, effective March 31, 2017.

On March 29, 2017, NYSOH received your application for financial assistance with health insurance.

On March 30, 2017, NYSOH issued an eligibility determination notice, based on your March 29, 2017 application, stating that you and your spouse were eligible to enroll in the Essential Plan, effective May 1, 2017.

Also on March 30, 2017, NYSOH issued an enrollment confirmation notice, confirming your and your spouse's selection of an Essential Plan, with an enrollment start date of May 1, 2017.

On April 3, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your and your spouse's enrollment in the Essential Plan insofar as it did not begin on April 1, 2017.

On July 14, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and the Hearing Officer left the record open until July 28, 2017 to allow you time to submit supporting documentation and to allow the Hearing Officer the time to listen to NYSOH's Call Center recordings. The Hearing Officer listened to the recordings from March 9, 2017 and March 10, 2017.

On July 25, 2017, NYSOH's Appeals Unit a sixteen-page fax from you. This was incorporated into the record as "Appellant's Exhibit #1", and the record was closed the same day.

## **Findings of Fact**

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

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- 1) You and your spouse were determined eligible for the Essential Plan on March 2, 2016, with an effective date of April 1, 2016.
- 2) Your NYSOH account reflects that you receive your notices from NYSOH by electronic alert.
- 3) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to update your application in order to renew your and your spouse's eligibility.
- 4) You testified that you were contacted by an application counselor employed with your Essential Plan provider at the end of February 2017 who informed you that it was time to renew your and your spouse's health insurance.
- 5) You testified that you and your spouse attempted to renew your health insurance with the help of the application counselor through NYSOH on March 9, 2017 and March 10, 2017, but were unable to complete the renewal because NYSOH was unable to transfer your and your spouse's information to the application counselor's dashboard.
- 6) NYSOH Appeals Unit reviewed the phone call made on March 9, 2017 and determined that:
  - a. You were on the line with your application counselor. Your application counselor requested that NYSOH transfer your and your spouse's information to his dashboard, so that he could help you and your spouse with your renewal.
  - b. The NYSOH representative stated that he started the process, but it was running slow.
  - c. Toward the end of the conversation, the NYSOH representative stated that the system was not allowing him to transfer your and your spouse's information to the application counselor's dashboard.
  - d. The NYSOH representative told the application counselor to call back tomorrow in order to try again.
- 7) NYSOH reviewed the phone call made on March 10, 2017 and determined that:
  - a. Your application counselor called NYSOH to attempt to have your and your spouse's information transferred to his dashboard.
  - b. The application counselor telephoned you into the telephone call so that you could give authorization.
  - c. You gave authorization and the NYSOH representative placed you and your application counselor on hold.

- d. While you and the application counselor were on hold, the phone disconnected.
- 8) The record reflects that on March 29, 2017, you contacted NYSOH and updated your application for financial assistance with health insurance over the phone because you and your spouse did not want a gap in coverage.
  - 9) You and your spouse reenrolled into an Essential Plan on March 29, 2017, for a May 1, 2017 start date.
  - 10) You testified that you do not believe that you and your spouse should have a gap in coverage because you and your spouse attempted to renew multiples times prior to March 29, 2017.
  - 11) You testified that you would like your and your spouse's Essential Plan coverage to start as of April 1, 2017 in order to avoid a gap in coverage.
  - 12) On July 24, 2017, you faxed documentation to the NYSOH Appeals Unit which included screenshots from your application counselor computer containing notes regarding your account.

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

## **Applicable Law and Regulations**

### Essential Plan Renewal

In general, NYSOH will review Essential Plan eligibility no more frequently than once every 12 months from the effective date of eligibility as long as enrollees are under age 65, not enrolled in minimum essential coverage elsewhere, remain state residents, and do not have any changes in circumstances. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12-month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or changes in circumstances (42 CFR § 600.340(a); 42 CFR § 600.320(d); NY Social Services Law § 369-gg(3) and (4)(d)); New York's Basic Health Plan Blueprint, pp. 8 and 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must

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require the qualified individual to report any changes within 30 days (42 CFR § 600.340(e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (42 CFR §600.345; (NY Social Services Law § 369-gg(4)(c); 45 CFR § 155.335(g); New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see also 42 CFR § 600.320). For selections 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 §§ 155.410(f)(2), 155.420(b)(1)(ii)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you and your spouse's eligibility for and enrollment in your Essential Plan was effective May 1, 2017.

You and your spouse were originally found eligible for the Essential Plan effective April 1, 2016.

Generally, NYSOH will redetermine a qualified individual's eligibility for the Essential Plan once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's February 3, 2017 renewal notice stated that there was not enough information to determine whether you and your spouse were eligible to continue your financial assistance for health insurance, and that you needed to supply additional information between February 16, 2017 and March 15, 2017, or your and your spouse's financial assistance might end.

Because there was no timely response to this notice, you and your spouse were terminated from your Essential Plan effective March 31, 2017.

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However, you testified that you, your spouse, and your application counselor called NYSOH on March 9, 2017 to transport your information onto his dashboard so that he could assist you and your spouse with your application. However, NYSOH was experiencing technical difficulties and was unable to transport the information for the application to his dashboard. You testified that your application counselor called back on March 10, 2017, and was disconnected from the call while waiting on hold. You further testified that you and your spouse finally applied without the help of the application counselor over the phone on March 29, 2017 because you did not want a lapse in coverage. A review of the telephone record, and documentation submitted confirms this testimony.

The date on which the Essential Plan can take effect depends on the day a person selects the plan for enrollment. 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 after the fifteenth day of a month goes into effect on the first day of the second following month.

Based on the credible evidence of record, it is reasonable to infer that, but for the technical difficulties had by NYSOH, that you and your spouse would have submitted an application for financial assistance with health insurance on March 9, 2017. If you had submitted an application on March 9, 2017, you and your spouse would have been found eligible for the Essential Plan on that day, and you and your spouse would have been able to select a plan for enrollment.

Had you and your spouse been able to select an Essential Plan on March 9, 2017, your and your spouse's Essential Plan would have taken effect on the first day following March 2017; that is, on April 1, 2017.

Therefore, the March 30, 2017 eligibility determination and March 30, 2017 plan enrollment notices stating that you and your spouse were eligible for and enrolled in the Essential Plan effective May 1, 2017 are MODIFIED to state that your and your spouse's eligibility for and enrollment in the Essential Plan were effective April 1, 2017.

Your case is RETURNED to NYSOH to enroll you and your spouse in your Essential Plans as of April 1, 2017, and to notify you accordingly.

## **Decision**

The March 30, 2017 notice of eligibility is MODIFIED to state that your and your spouse's eligibility for the Essential Plan was effective April 1, 2017.

The March 30, 2017 notice of enrollment is MODIFIED to state that your and your spouse's enrollment in the Essential Plan was effective April 1, 2017.



Your case is RETURNED to NYSOH to reenroll you and your spouse in your Essential Plan, effective April 1, 2017.

**Effective Date of this Decision:** August 1, 2017

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

Your and your spouse's eligibility for and enrollment in the Essential Plan should have been effective as of April 1, 2017.

Your case is being sent back to NYSOH to reenroll you and your spouse in your Essential Plans as of April 1, 2017.

You and your spouse will be responsible for any premium payments for the months you and your spouse are enrolled into 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

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 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 March 30, 2017 notice of eligibility is MODIFIED to state that your and your spouse's eligibility for the Essential Plan was effective April 1, 2017.

The March 30, 2017 notice of enrollment is MODIFIED to state that your enrollment in the Essential Plan was effective April 1, 2017.

Your and your spouse's eligibility for and enrollment in the Essential Plan should have been effective as of April 1, 2017.

Your case is RETURNED to NYSOH to reenroll you and your spouse in your Essential Plans, effective April 1, 2017.

You and your spouse will be responsible for any premium payments for the months you and your spouse are enrolled into coverage.

## **Legal Authority**

We are issuing this determination in accordance with 45 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).

**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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### **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.

### **שׂוֹדִישׁ (Yiddish)**

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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.

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