



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

Notice of Decision

Decision Date: August 25, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017756

[REDACTED]

Dear [REDACTED],

On August 1, 2017, you appeared by telephone at a hearing of your appeal of NY State of Health's January 28, 2017 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.

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 25, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017756



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 you and your spouse were no longer eligible to enroll in the Essential Plan and end your coverage effective January 31, 2017?

Procedural History

On November 30, 2016, you submitted an application for financial assistance through NYSOH.

On December 1, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective January 1, 2017. The notice directed you to provide additional proof of your and your spouse's income and immigration status by February 28, 2017, to confirm the information in your application.

On December 1, 2016, NYSOH issued a plan enrollment notice confirming that as of November 30, 2016, you and your spouse were enrolled in an Essential Plan with an enrollment start date of January 1, 2017. The notice directed you to provide additional proof of your and your spouse's income and immigration status by February 28, 2017, to confirm the information in your application.

On December 13, 2016, your NYSOH account was updated.

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On December 14, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective January 1, 2017. The notice directed you to provide additional proof of your and your spouse's income and immigration status by February 28, 2017, to confirm the information in your application.

On January 13, 2017, your NYSOH account was updated.

On January 14, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective February 1, 2017. The notice directed you to provide additional proof of your and your spouse's immigration status by February 28, 2017, to confirm the information in your application.

On January 27, 2017, your account was systematically updated.

On January 28, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse did not qualify for financial assistance or to purchase a qualified health plan at full cost, effective February 1, 2017.

Also on January 28, 2017, NYSOH issued a disenrollment notice stating that your Essential Plan coverage would end January 31, 2017, because you and your spouse were no longer eligible to enroll in health insurance.

On February 23, 2017, your NYSOH account was updated.

On February 24, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a qualified health plan at full cost, effective April 1, 2017.

On March 30, 2017, your NYSOH account was updated.

On March 31, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective January 1, 2017. The notice directed you to provide additional proof of your and your spouse's income by June 28, 2017, to confirm the information in your application.

On March 31, 2017, NYSOH issued a plan enrollment notice confirming that as of March 30, 2017, you and your spouse were enrolled in an Essential Plan with an enrollment start date of May 1, 2017. The notice directed you to provide additional proof of your and your spouse's income by June 28, 2017, to confirm the information in your application.

On April 5, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as your and your spouse's Essential Plan coverage was discontinued.

On August 1, 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 account and testimony, you are seeking health insurance for yourself and your spouse.
- 2) According to your account, you and your spouse are "Non-immigrant Visa Holder[s]."
- 3) On December 5, 2016, you faxed a letter from your employer, [REDACTED], stating that you receive a non-taxable annual salary of \$31,980.00 (see Document [REDACTED]).
- 4) On December 5, 2016, you faxed your and your spouse's U.S. Visas to NYSOH showing your and your spouse's type/class is "G1" with expiration dates of December 16, 2016 (see Documents [REDACTED]; [REDACTED]).
- 5) On December 5, 2016, you faxed your and your spouse's Social Security cards, indicating "VALID FOR WORK ONLY WITH INS AUTHORIZATION" to NYSOH (see Documents [REDACTED]).
- 6) On January 6, 2017, you faxed a copy of your U.S. Visa to NYSOH. An additional copy was received by NYSOH on February 17, 2017. The Visa states that your type/class is "G1" with an expiration date of December 12, 2018 (see Documents [REDACTED]).
- 7) On January 6, 2017, you faxed a copy of your spouse's U.S. Visa to NYSOH. An additional copy was received by NYSOH on February 21, 2017. The Visa states that your spouse's type/class is "G1" with an expiration date of December 12, 2018 (see Documents [REDACTED], [REDACTED]).
- 8) According to notes in your NYSOH account, on January 13, 2017, NYSOH determined that the letter from your employer was valid proof of income and changed your income to \$31,980.00.

- 9) According to the notes in your NYSOH account, on January 27, 2017 NYSOH invalidated the immigration documentation that was submitted on December 5, 2016 because they were expired.
- 10) On February 17, 2017, NYSOH received printouts of your and your spouse's most recent I-94 admission from U.S. Customs and Border Protection's website. It indicates: the most recent dates of entry were [REDACTED] and [REDACTED]; current class of admission is G1; and the I-94s are valid until "D/S" (see Documents [REDACTED]).
- 11) You testified that you are appealing the discontinuance of your and your spouse's Essential Plan because medical expenses were incurred during the months you were without coverage.

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

Applicable Law and Regulations

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).

Verification of Eligibility - Income

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow the NYSOH to verify the household's income (45 CFR § 155.320(c)(1)(i)). If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR § 155.315(f); 42 CFR § 600.345 (a)) See also 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>).

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NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence (45 CFR §155.315(f)(2). If NYSOH remains unable to verify the information required to determine the applicant's eligibility after the 90 day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

Verification of Eligibility – Citizenship/Immigration

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)).

For individuals who attest 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 (42 CFR § 600.345, 45 CFR § 155.315(c)(3), (f)(2)(i)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse were no longer eligible to enroll in the Essential Plan and properly ended your coverage effective January 31, 2017.

Your and your spouse's initial application for financial assistance was submitted on November 30, 2016. Based on that application, on December 1, 2016, NYSOH issued a notice stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time. The notice instructed you to provide additional proof of your and your spouse's income and immigration status by February 28, 2017, and provided a list of acceptable documentation. The list included: a letter from employer on company letterhead; proof of current visa status; and an I-94 arrival departure record (see Document [REDACTED]).

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to their household's projected annual income. For individuals seeking financial assistance, 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.

The record reflects that on December 5, 2016, you faxed a letter from your employer stating that you receive an annual salary of \$31,980.00 (see Document [REDACTED]). On January 13, 2017, NYSOH determined that the letter from your employer was valid proof of income and acknowledged your household income to be \$31,980.00. As such, the record reflects that you provided sufficient income documentation with the required timeframe.

If NYSOH cannot verify an individual's citizenship or immigration status, it must provide the individual with notice of the inconsistency. NYSOH must also provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency.

The record reflects that on January 27, 2017, your immigration documentation was determined to be invalid because that documentation had expired. Your NYSOH account was updated that same day. Based on that update, NYSOH issued notices stating that you and your spouse did not qualify for financial assistance or to purchase a qualified health plan and ended your Essential Plan coverage effective January 31, 2017.

However, on January 6, 2017, you faxed copies of your and your spouse's U.S. Visas to NYSOH. Additional copies of the Visas were received by NYSOH on February 17, 2017 and February 21, 2017. The Visas state that you and your spouse have a type/class of "G1" with expiration dates of December 12, 2018 (see Documents [REDACTED]). Further, on February 17, 2017, NYSOH received printouts of your and your spouse's most recent I-94 admissions from U.S. Customs and Border Protection's website. The printouts indicate your and your spouse's most recent dates of entries were [REDACTED] and [REDACTED]; current classes of admission are G1; and the I-94s are valid until "D/S" (see Documents [REDACTED]).

Therefore, the record reflects that you provided sufficient proof of your and your spouse's immigration status within the 90-day time limit. You provided all the necessary income and immigration documentation that NYSOH requested within the requisite time period. As such, NYSOH incorrectly determined you and your spouse not eligible for financial assistance and ended both of your coverage effective January 31, 2017.

Therefore, the January 28, 2017 eligibility determination and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your and your spouse's Essential Plan coverage effective February 1, 2017, and to notify you accordingly.

Decision

The January 28, 2017 eligibility determination notice is RESCINDED.

The January 28, 2017 disenrollment notice is RESCINDED.

This Decision has no effect on any subsequently issued determinations or enrollments by NYSOH.

Effective Date of this Decision: August 25, 2017

How this Decision Affects Your Eligibility

NYSOH improperly determined you and your spouse ineligible for financial assistance or to enroll in health insurance.

NYSOH improperly ended your and your spouse's Essential Plan coverage as of January 31, 2017.

Your case has been returned to NYSOH to reinstate your and your spouse's Essential Plan coverage effective February 1, 2017. NYSOH will notify you once this is done.

You will be responsible to pay directly to the health plan the monthly premiums due for your and your spouse's coverage to resume from February 2017 through April 30, 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

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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
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The January 28, 2017 eligibility determination notice is RESCINDED.

The January 28, 2017 disenrollment notice is RESCINDED.

This Decision has no effect on any subsequently issued determinations or enrollments by NYSOH.

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NYSOH improperly determined you and your spouse ineligible for financial assistance or to enroll in health insurance.

NYSOH improperly ended your and your spouse's Essential Plan coverage as of January 31, 2017.

Your case has been returned to NYSOH to reinstate your and your spouse's Essential Plan coverage effective February 1, 2017. NYSOH will notify you once this is done.

You will be responsible to pay directly to the health plan the monthly premiums due for your and your spouse's coverage to resume from February 2017 through April 30, 2017.

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 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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