



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

Notice of Decision

Decision Date: September 6, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017979

[REDACTED]

Dear [REDACTED],

On August 11, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 26, 2017 eligibility determination and disenrollment notices, March 7, 2017 enrollment confirmation notice, and March 22, 2017 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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Decision

Decision Date: September 6, 2017

NY State of Health Account ID: [REDACTED]
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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine your eligibility for and enrollment in an Essential Plan ended, effective February 28, 2017?

Did NYSOH properly determine that your subsequent enrollment in an Essential Plan became effective no earlier than April 1, 2017?

Did NYSOH properly determine your subsequent enrollment in an Essential Plan terminated, effective April 1, 2017?

Procedural History

On November 9, 2016, NYSOH received your initial application for health insurance.

On November 10, 2016, NYSOH issued an eligibility determination notice stating you were eligible to enroll in the Essential Plan, for a limited time, with a \$20.00 monthly premium, effective December 1, 2016. It further stated that NYSOH was checking federal data sources to confirm your immigration status and would contact you if proof of your immigration status was needed.

Also on November 10, 2016, NYSOH issued an enrollment notice confirming your enrollment in an Essential Plan, effective December 1, 2016.

On November 23, 2016, NYSOH issued an eligibility determination notice, based on a November 21, 2016 systematic eligibility redetermination, stating you were

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eligible to enroll in the Essential Plan, for a limited time, with a \$20.00 monthly premium, effective January 1, 2017. The notice directed you to submit proof of your immigration status by February 19, 2017 to confirm your eligibility or you might lose your insurance or receive less help paying for your coverage.

On February 25, 2017, NYSOH systematically redetermined your eligibility.

On February 26, 2017, NYSOH issued an eligibility determination notice stating you were no longer eligible to enroll in health insurance through NYSOH, effective March 1, 2017, because you did not provide proof of your immigration status to confirm your eligibility.

Also on February 26, 2017, NYSOH issued a disenrollment notice stating your enrollment in your Essential Plan would end on February 28, 2017, because you were no longer eligible to enroll in the plan.

On March 6, 2017, NYSOH received your updated application for health insurance.

On March 7, 2017, NYSOH issued an eligibility determination notice stating you were eligible to enroll in the Essential Plan, for a limited time, with a \$20.00 monthly premium, effective April 1, 2017. It further stated NYSOH was checking federal data sources to confirm your immigration status and would contact you if proof of your immigration status was needed.

Also on March 7, 2017, NYSOH issued an enrollment notice, based on your March 6, 2017 plan selection, confirming your enrollment in an Essential Plan, effective April 1, 2017.

On March 8, 2017, NYSOH issued an eligibility determination notice, based on a March 7, 2017 systematic eligibility redetermination, stating you were eligible to enroll in the Essential Plan, for a limited time, with a \$20.00 monthly premium, effective January 1, 2017. The notice directed you to submit proof of your income by June 4, 2017 to confirm your eligibility or you might lose your insurance or receive less help paying for your coverage.

On March 22, 2017, NYSOH issued an eligibility determination notice, based on a March 21, 2017 systematic eligibility redetermination, stating you were no longer eligible for health insurance through NYSOH, effective April 2, 2017, because a notice regarding your eligibility sent to the mailing address listed on your account had been returned as undeliverable. The notice directed you to update your mailing address with NYSOH so you could remain eligible for coverage.

Also on March 22, 2017, NYSOH issued a disenrollment notice stating your enrollment in an Essential Plan would end on April 1, 2017, because you were no longer eligible to enroll in that plan.

On March 28, 2017, NYSOH received your updated application for health insurance.

On March 29, 2017, NYSOH issued an eligibility determination notice stating you were eligible to enroll in the Essential Plan, for a limited time, with a \$20.00 monthly premium, effective May 1, 2017. The notice directed you to submit proof of your income by June 26, 2017 to confirm your eligibility or you might lose your insurance or receive less help paying for your coverage.

Also on March 29, 2017, NYSOH issued an enrollment notice, based on your March 28, 2017 plan selection, confirming you were enrolled in an Essential Plan, effective May 1, 2017.

On April 12, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you were not enrolled in an Essential Plan as of March 1, 2017.

On August 11, 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) On November 9, 2016, NYSOH received your initial application for health insurance. That application indicated your immigration status was that of an immigrant non-citizen and further indicated that your documentation of that status was an Employment Authorization Card with an expiration date of January 20, 2017.
- 2) According to your account, NYSOH was unable to verify your immigration status with federal data sources and you were determined conditionally eligible to enroll in the Essential Plan, pending receipt of documentation to verify your immigration status by February 19, 2017.
- 3) You testified that you received the November 23, 2016 notice issued by NYSOH directing you to submit proof of your immigration status by February 19, 2017.
- 4) You testified that your Employment Authorization Card expired on January 20, 2017 and that your current immigration status changed since the time

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of your November 9, 2017 application. You testified that you now possess a Class 01 visa that expires in 2019.

- 5) You testified you must not have submitted your current immigration documentation by the February 19, 2017 deadline.
- 6) According to your account, NYSOH has never received documentation of your immigration status.
- 7) NYSOH systematically redetermined your eligibility on February 25, 2017 and found you were no longer eligible for health insurance through NYSOH, because you failed to submit proof of your immigration status. You were disenrolled from your Essential Plan, effective February 28, 2017.
- 8) You testified that you had a medical appointment scheduled for [REDACTED] and that you did not receive the disenrollment notice from NYSOH until after you attended that appointment. You testified that you have an outstanding medical bill related to that appointment.
- 9) According to your account, you updated your application on March 6, 2017 with your current immigration documentation information by updating the receipt number for your Employment Authorization Card as well as updating the expiration date of that card to June 1, 2019.
- 10) According to your account, NYSOH was able to verify your immigration status based on the updated information in your March 6, 2017 application and no documentation of your immigration status was requested.
- 11) You were determined conditionally eligible to enroll in the Essential Plan, pending receipt of income documentation.
- 12) You selected an Essential Plan on March 6, 2017 and your enrollment was to become effective on April 1, 2017.
- 13) According to your account, on March 21, 2017, NYSOH uploaded to your account a notice issued to you on January 30, 2017 that was returned to NYSOH as undeliverable on February 9, 2017.
- 14) According to your account, your mailing address was marked invalid by NYSOH and you were determined ineligible for the Essential Plan and disenrolled, effective April 1, 2017.
- 15) You testified that the mailing address listed on the January 30, 2017 enrollment confirmation notice is your correct mailing address.

- 16) You updated your account on March 28, 2017 and confirmed your mailing address. You reenrolled in an Essential Plan that day and coverage through that plan became effective on May 1, 2017.
- 17) There is no record of any previous or subsequent notices issued to the same mailing address listed on the January 30, 2017 enrollment confirmation notice being returned to NYSOH as undeliverable.
- 18) Your account confirms you were without health coverage for the months of March and April 2017.

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

Applicable Law and Regulations

Essential Plan Eligibility

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).

Citizenship and Immigration Status

To enroll in a qualified health plan through NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

If an applicant attests 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

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days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five-day period. (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

Essential Plan Effective Date

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 first issue is whether NYSOH properly determined your eligibility for and enrollment in an Essential Plan ended, effective February 28, 2017.

According to your account, you submitted an application for health insurance on November 9, 2016. That application indicated your immigration status was that of an immigrant non-citizen and indicated that your documentation of that status was an Employment Authorization Card with an expiration date of January 20, 2017. According to your account, NYSOH was unable to verify your immigration status with federal data sources and you were determined conditionally eligible for the Essential Plan, pending receipt of documentation confirming your attested immigration status.

Pursuant to the above cited regulations, to be eligible for the Essential Plan an applicant must be a citizen or a lawfully present non-citizen. If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is

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unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency and 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five-day period.

In the present case, NYSOH issued a notice on November 23, 2016 indicating that it was unable to verify your immigration status and directing you to submit proof of said status by February 19, 2017. You testified that you received this notice, but that your immigration status changed since the November 9, 2017 application and you must not have submitted your current immigration documentation by the February 19, 2017 deadline. Therefore, the record establishes that NYSOH provided you with adequate notice that documentation of your immigration status was required by February 19, 2017 to confirm your eligibility to remain enrolled in the Essential Plan. According to your account, NYSOH has never received documentation of your immigration status.

Pursuant to the regulations, If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available. NYSOH systematically redetermined your eligibility on February 25, 2017, based on the information provided in the November 9, 2016 application. Given that the application indicated that the documentation of your immigration status expired on January 20, 2017, prior to the February 25, 2017 systematic redetermination, NYSOH properly found you were no longer eligible for the Essential Plan, because you failed to establish a satisfactory immigration status to qualify for that coverage.

Therefore, the February 26, 2017 eligibility determination and disenrollment notices stating your eligibility for and enrollment in an Essential Plan ended, effective February 28, 2017 were correct and are AFFIRMED.

The second issue under review is whether NYSOH properly determined that your subsequent enrollment in an Essential Plan became effective no earlier than April 1, 2017.

Your account confirms that you first contacted NYSOH on March 6, 2017 to reenroll into an Essential Plan.

Pursuant to the regulations, the effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. Plan selected from first to the fifteenth day of any month will become effective on the first day of the following month. 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.

Since you selected your Essential Plan on March 6, 2017, before the fifteenth day of the month, NYSOH properly determined your enrollment in that plan became effective on the first day of the next following month, that is on April 1, 2017.

Therefore, the March 7, 2017 enrollment confirmation notice stating your enrollment in an Essential Plan became effective April 1, 2017 is correct and is **AFFIRMED**.

The third issue under review is whether NYSOH properly determined your subsequent enrollment in an Essential Plan terminated, effective April 1, 2017.

As discussed above, your subsequent enrollment in an Essential Plan was effective April 1, 2017.

Although your account confirms that a January 30, 2017 enrollment confirmation notice was returned to NYSOH on February 9, 2017 as undeliverable, it also confirms that previous and subsequent notices issued to the same mailing address were delivered without issue and no other notices issued to you by NYSOH have been returned. You confirmed that the mailing address listed on the January 30, 2017 notice was your correct mailing address and your account confirms that the same address is listed on all notice issued to you by NYSOH to date. Accordingly, it is concluded that NYSOH erroneously marked your mailing address invalid.

Pursuant to the regulations, only NY State residents are eligible to enroll in the Essential Plan. Accordingly, NYSOH determined you were no longer eligible to enroll in the Essential Plan, effective April 1, 2017, after your mailing address was marked invalid, because your status as a state resident could not be confirmed. However, as discussed above, your mailing address was erroneously marked invalid. Thus, there is no justification for your April 1, 2017 disenrollment from your Essential Plan.

Therefore, the March 22, 2017 eligibility determination and disenrollment notices stating your eligibility for and enrollment in an Essential Plan ended on April 1, 2017 were not correct and must be **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate you in your Essential Plan for the month of April 2017.

Decision

The February 26, 2017 eligibility determination and disenrollment notices are **AFFIRMED**.

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The March 7, 2017 enrollment confirmation notice is AFFIRMED.

The March 22, 2017 eligibility determination and disenrollment notices are RESCINDED.

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

Effective Date of this Decision: September 6, 2017

How this Decision Affects Your Eligibility

Your coverage through your Essential Plan ended on February 28, 2017.

You were not enrolled in an Essential Plan in the month of March 2017.

Your subsequent enrollment in an Essential Plan was effective April 1, 2017 and should not have been terminated.

Your case is being sent back to NYSOH to reinstate your Essential Plan for the month of April 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:

- By calling the Customer Service Center at 1-800-318-2596

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- 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 26, 2017 eligibility determination and disenrollment notices are **AFFIRMED**.

The March 7, 2017 enrollment confirmation notice is **AFFIRMED**.

The March 22, 2017 eligibility determination and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate you in your Essential Plan for the month of April 2017.

Your coverage through your Essential Plan ended on February 28, 2017.

You were not enrolled in an Essential Plan in the month of March 2017.

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Your subsequent enrollment in an Essential Plan was effective April 1, 2017 and should not have been terminated.

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 bɛtumi ama wo obi a okyerɛ 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 איר געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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