



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

## Notice of Decision

Decision Date: August 23, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000018160

[REDACTED]

Dear [REDACTED],

On July 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 21, 2017 disenrollment notice and April 13, 2017 eligibility determination and 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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## Decision

Decision Date: August 23, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000018160



## Issues

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

Did NY State of Health (NYSOH) properly determine that your and your adult child's eligibility for the Essential Plan ended effective March 31, 2017?

Did NYSOH properly determine that your and your adult child's eligibility for and re-enrollment in your Essential Plan was effective May 1, 2017?

## Procedural History

On October 19, 2016, NYSOH issued a notice that it was time to renew your and your adult child's (hereinafter "child") health insurance for the upcoming coverage year. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether you and your child would qualify for financial help paying for your health coverage, and that you needed to update your account between November 16, 2016 and December 15, 2016 or you might lose the financial assistance you were currently receiving.

On November 16, 2016, NYSOH received your updated application for financial assistance with health insurance.

Also on November 16, 2016, you uploaded income documentation to your NYSOH account.

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On November 17, 2016, NYSOH issued an eligibility determination notice stating that you and your child were eligible to enroll in the Essential Plan for a limited time, effective January 1, 2017. The notice directed you to provide documentation confirming your household income before February 14, 2017 or, if you missed this deadline, you and your child might lose your insurance or receive less help paying for your coverage.

On November 19, 2016, NYSOH issued a plan enrollment notice confirming your and your child's enrollment in an Essential Plan, effective January 1, 2017.

On November 25, 2016, NYSOH issued a disenrollment notice stating that your and your child's silver-level qualified health plan (QHP) would end on December 31, 2016. This was because you were no longer eligible to enroll in your QHP.

On December 1, 2016, NYSOH reviewed the documentation you submitted on November 16, 2016 and the system re-ran your eligibility for financial assistance.

On December 2, 2016, NYSOH issued an eligibility determination notice stating that you and your child were eligible to enroll in the Essential Plan for a limited time, effective January 1, 2017. The notice directed you to provide documentation confirming your household income before February 14, 2017 or, if you missed this deadline, you and your child might lose your insurance or receive less help paying for your coverage.

Also on December 2, 2016, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. You were directed to submit more documentary proof to verify your household income by February 14, 2017.

On December 10, 2016, NYSOH issued a plan enrollment notice confirming your and your child's enrollment in an Essential Plan, effective January 1, 2017.

NYSOH did not receive the requested household income documentation by the February 14, 2017 deadline.

On February 21, 2017, NYSOH issued an eligibility determination notice stating that you and your child were eligible to share in advance premium tax credit of up to \$701.00 per month to help pay for your health coverage and to receive cost sharing reductions if you enrolled in a silver level QHP, effective April 1, 2017. The notice stated that you and your child no longer qualified for the Essential Plan as of March 31, 2017. The notice further stated that you and your child qualified for advance payment of the premium tax credit because federal and state data sources showed your household income was between \$22,108.00 and \$64,080.00. This is the income range for the premium tax credit based on your household size.

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Also on February 21, 2017, NYSOH issued a disenrollment notice stating that your and your child's enrollment in the Essential Plan would end as of March 31, 2017, because you were no longer eligible to remain in your plan.

On April 12, 2017, you updated your application for financial assistance.

Also on April 12, 2017, you uploaded a copy of your 2016 income tax return to your NYSOH account as proof of your household income.

On April 13, 2017, NYSOH issued an eligibility determination notice stating that you and your child were eligible to enroll in the Essential Plan, effective May 1, 2017. The notice further stated that you and your child no longer qualified for advance premium tax credit and cost sharing reductions as of April 30, 2017.

Also on April 13, 2017, NYSOH issued a plan enrollment notice, based on your plan selection on April 12, 2017, confirming that you and your child were enrolled in an Essential Plan, effective May 1, 2017.

On April 19, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your and your child's Essential Plan for the month of April 2017.

On July 20, 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 and your testimony, you intend to file your 2017 taxes with a tax status of Head of Household (with qualifying individual) and will claim one dependent.
- 2) According to your NYSOH account you reside in [REDACTED], New York.
- 3) You testified, and your NYSOH account confirms, that you receive all of your notices from NYSOH by electronic mail.
- 4) You testified that you have been receiving electronic alerts from NYSOH for several years and have been regularly logging into your NYSOH account upon receiving these alerts. You testified that based on the renewal alert of October 19, 2016, you logged into your account

on November 16, 2016 and updated your account for the upcoming coverage year.

- 5) According to your NYSOH account, on November 16, 2016 you submitted a single earnings statement from your employer. On December 1, 2016 this document was reviewed by NYSOH and invalidated as proof of income.
- 6) On December 2, 2016, NYSOH issued a notice stating that you needed to submit more proof to verify the income listed in your application by February 14, 2017.
- 7) You testified that, when you received the February 21, 2017 notice stating that your and your child's Essential Plan would end on March 31, 2017, that you recalled you needed to re-submit your household income documents.
- 8) You testified that you tried to upload documents at that time but the documents just would not upload. You testified that you were going to do it later but then forgot.
- 9) You testified that you were [REDACTED] in early April 2017 and you were not told at the time of admittance that your health insurance had been cancelled. You learned you had no health insurance about a week later when you went for [REDACTED].
- 10) According to your NYSOH account and your testimony, on April 12, 2017, you contacted NYSOH and updated your account and submitted a copy of your 2016 income tax return. At that time, your application was run and you and your child were determined eligible for the Essential Plan as of May 1, 2017.
- 11) According to your NYSOH account and your testimony, you enrolled yourself and your child in an Essential Plan on April 12, 2017 with enrollment start date of May 1, 2017.
- 12) You testified that you are seeking reinstatement of your Essential Plan for yourself and your child for the month of April 2017 because you have unpaid medical bills for 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)).

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 in order 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

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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 your and your child's eligibility 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 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.

In the eligibility determination issued on November 17, 2016, you were advised that you and your child were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income before February 14, 2017.

The record reflects that you submitted a single earnings statement on November 16, 2017. On December 1, 2016, NYSOH reviewed that document and it was invalidated as proof of income. On December 2, 2016, NYSOH issued a notice stating that you needed to submit more proof to verify the household income listed in your application by February 14, 2017.

According to your testimony, you did not attempt to submit any documentation until you received the February 21, 2017 notice that stated your and your child's Essential Plan would end on March 31, 2017. You testified that you then recalled

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that you need to resubmit your income documentation. You testified that you attempted to submit the documentation but that it just would not upload. You testified that you intended to try it at a later time but forgot.

According to your NYSOH account and your testimony, you receive your notices by electronic alerts. You testified that you have been receiving electronic alerts from NYSOH for several years and have been regularly logging into your NYSOH account upon receiving these alerts. You testified that based on the renewal alert and notice of October 19, 2016, you logged into your account on November 16, 2016 and updated your account for the upcoming coverage year. You testified that you knew you had to submit proof of income documentation. You testified that you received the February 21, 2017 notice that your and your child's Essential Plan would end on March 31, 2017.

Since the record reflects that the electronic alerts were properly delivered to your e-mail address as you requested, it is concluded that NYSOH did give you the proper notice that you needed to submit proof of your household income by February 14, 2017, and that your and your child's Essential Plan coverage would end on March 31, 2017.

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, your and your child's eligibility for the Essential Plan terminated as of February 28, 2017, because you did not submit documentation and did not adequately demonstrate that you could not provide documentation to confirm your income.

Therefore, the February 21, 2017 eligibility determination notice is AFFIRMED.

The February 21, 2017, disenrollment notice stating that your and your child's Essential Plan would end on March 31, 2017 is also AFFIRMED.

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

You testified, and your account confirms, that you updated your NYSOH application on April 12, 2017. That day you selected an Essential Plan for enrollment for yourself and your child.

The date on which enrollment in an 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 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.

Since you selected an Essential Plan on April 12, 2017, which is before the sixteenth of the month, your and your child's enrollment would properly take effect on the first day of the month following April 2017; that is, on May 1, 2017.

Therefore, the April 13, 2017, eligibility determination notice, and the April 13, 2017, enrollment confirmation notice stating that your and your child's eligibility for and enrollment in the Essential Plan was effective May 1, 2017, is correct and must be AFFIRMED.

## **Decision**

The February 21, 2017 eligibility determination notice is AFFIRMED.

The February 21, 2017 disenrollment notice is AFFIRMED.

The April 13, 2017 eligibility determination notice is AFFIRMED.

The April 13, 2017 plan enrollment notice is AFFIRMED.

**Effective Date of this Decision:** August 23, 2017

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

You and your child were not eligible to enroll in the Essential Plan, effective April 1, 2017, because you did not provide documentation of your household's income.

Your and your child's re-enrollment in the Essential Plan was effective May 1, 2017.

You and your child were not enrolled in health insurance coverage through NYSOH during 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
- 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

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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The February 21, 2017 eligibility determination notice is AFFIRMED.

The February 21, 2017 disenrollment notice is AFFIRMED.

The April 13, 2017 eligibility determination notice is AFFIRMED.

The April 13, 2017 plan enrollment notice is AFFIRMED.

You and your child were not eligible to enroll in the Essential Plan, effective April 1, 2017, because you did not provide documentation of your household's income.

Your and your child's re-enrollment in the Essential Plan was effective May 1, 2017.

You and your child were not enrolled in health insurance coverage through NYSOH during the month of April 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 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 אייך געבן א דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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