



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

Notice of Decision

Decision Date: August 9, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018221

[REDACTED]

Dear [REDACTED],

On August 1, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 8, 2017 eligibility determination and March 9, 2017 disenrollment notices, and April 15, 2017 eligibility determination and enrollment confirmation 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 Date: August 9, 2017

NY State of Health Account ID: [REDACTED]
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[REDACTED]

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 eligibility for the Essential Plan ended effective March 31, 2017?

Did NYSOH properly determine that your eligibility for, and reenrollment in, the Essential Plan was effective May 1, 2017?

Procedural History

On December 4, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium for a limited time, effective January 1, 2017. The notice further directed you to provide documentation confirming your income by March 2, 2017.

Also on December 4, 2016, NYSOH issued a notice confirming your enrollment in an Essential Plan, beginning January 1, 2016.

On March 8, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost. The notice stated that you were not eligible to enroll in the Essential Plan because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective April 1, 2017.

On March 9, 2017, NYSOH issued a disenrollment notice stating that your 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 14, 2017, you updated your application for financial assistance and uploaded documentation to your NYSOH account.

On April 15, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan with a monthly premium of \$20.00, effective May 1, 2017

Also on April 15, 2017, NYSOH issue a notice of enrollment confirmation, based on your plan selection on April 14, 2017, stating that you were enrolled in an Essential Plan beginning May 1, 2017.

On April 20, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan for the month of April 2017.

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 held open through August 16, 2017, to allow you to submit supporting documents.

After the hearing, you faxed a four-page document to NYSOH. The record is now closed.

Findings of Fact

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

- 1) You testified, and your NYSOH account confirms, that you are enrolled to receive email alerts regarding notices issued in your NYSOH account.
- 2) You testified that, until recently, you never received any email alerts because emails from NYSOH were going to your "spam" folder.
- 3) You testified that you did receive the December 4, 2016 notice because you generally log into your NYSOH account to look at any notices in your inbox after you have renewed your application.
- 4) You testified that you only log into your NYSOH inbox during the time period when you renew.

- 5) You testified that you were working a temporary job in December 2016, but you knew that you were becoming a permanent employee on [REDACTED].
- 6) You testified that you wanted to wait to submit a paystub until you received your first paycheck as a permanent employee.
- 7) You testified that you received your first paycheck as a permanent employee in early February 2017, and that you faxed it to NYSOH.
- 8) You testified that you received a confirmation that the fax went through to [REDACTED] and you believed that NYSOH had received your documentation.
- 9) You testified that you received other income in January 2017 that is not reflected in the paystub you submitted, but that you did not send that in because it was earned while you were still a temporary employee and you knew it would not reflect what your earnings would be for the year.
- 10) Your NYSOH account reflects that the December 4, 2016 eligibility determination notice requested income documentation, and included an attachment entitled "Request for Additional Information – Documentation List." This list states that, if you receive wages and salary, you must submit either paycheck stubs for the previous four weeks, or a letter from your employer on company letterhead.
- 11) You testified that you did not hear anything from NYSOH to indicate that you needed to submit further documentation or that there was anything wrong the documentation you sent, so you were under the impression that everything was fine with your account.
- 12) You testified that you did not know that you had been disenrolled from your coverage until your doctor's office informed you that your insurance had been suspended.
- 13) You testified that you never saw the March 8, 2017 or March 9, 2017 notices from NYSOH because the email alerts regarding these notices were routed to your "spam" folder.
- 14) You testified that, when you found this out you had been disenrolled, you contacted NYSOH but were unable to get reenrolled into coverage until May 1, 2017.
- 15) You testified that this was a problem because you were getting [REDACTED] and also were scheduled to receive a [REDACTED].

- 16) You testified that you have unpaid medical bills from the month of April 2017.
- 17) After the hearing, you faxed a four-page document to the Appeals Unit, consisting of the following:
 - a. A one-page fax cover sheet;
 - b. A one-page Fax Transmittal Report stating that a two-page fax was sent to [REDACTED] on February 7, 2017. The report indicates that the result of the fax attempt was "Success;"
 - c. A copy of the fax cover page from the fax you sent to NYSOH on February 7, 2017;
 - d. A copy of a paystub from [REDACTED] dated February 6, 2017 for the pay period of January 16, 2017 through January 31, 2017. The paystub stated that your pay rate is \$18.00 an hour, and that you earned \$180.00;

Together, these documents are marked and entered into the record as "Appellant's Exhibit One."

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

Applicable Law and Regulations

Verification of Eligibility for the Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

NYSOH must verify the eligibility of an applicant for the Essential Plan consistent with the standards set in 45 CFR § 155.315 and § 155.320 (New York's Basic Health Plan Blueprint, pgs. 16-17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>; 42 CFR § 600.345(a)(2)).

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An applicant is required to attest to their household's projected annual income. (45 CFR § 155.320(c)(3)(ii)(B)). For all individuals whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security 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 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 eligibility for the Essential Plan ended, effective March 31, 2017.

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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 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 December 4, 2016, you were advised that you were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income before March 2, 2017.

You testified, and provided documentation to prove, that you faxed income documentation to NYSOH on February 7, 2017. You provided a copy of a fax transmission report showing that this documentation was sent to NYSOH's fax number on February 7, 2017, and that the transmission was successful (Appellant's Exhibit One). Despite your submission of documentation in response to the December 4, 2016 request, NYSOH failed to review the documentation or upload it to your NYSOH account. As a result, NYSOH disenrolled you from your Essential Plan coverage as of March 31, 2017 for a failure to provide income documentation.

However, although NYSOH incorrectly stated that you had not provided income documentation, even if the documentation you provided had been reviewed, it would not have been sufficient to resolve the inconsistency in your income information. NYSOH issued a notice on December 4, 2016 that included an attachment stating that you needed to provide four weeks' worth of paystubs or a letter from your employer. You acknowledged that you saw this notice in your NYSOH inbox, and that your February 7, 2017 document submission was in response to this notice.

By your own admission, you had other earnings during the four weeks leading up to your February 6, 2017 paystub, but chose not to submit them because they were paid to you when you were still a temporary employee, and you were concerned that they did not accurately reflect your earnings. As such, the one paystub you submitted, which does not indicate your expected salary or hours and does not show the other income you earned in January 2017, was insufficient to satisfy NYSOH's documentation request. You knew, or should have known, that this documentation would be insufficient, as you received the December 4, 2016 notice, and the attached description of what documentation you needed to provide.

Moreover, although you testified that you did not receive the March 8, 2017 eligibility determination and March 9, 2017 disenrollment notices, you also testified that the emails alerting you to these notices went to your “spam” folder. Had you viewed the March 8, 2017 or March 9, 2017 notices, you could have provided sufficient documentation to NYSOH in time to avoid a gap in your coverage for the month of April 2017. The fact that the email alerts notifying you of these notices were routed to your “spam” folder is an issue that is in your control, and not indicative of any error on the part of NYSOH.

Therefore, it is concluded that: 1) NYSOH gave you proper notice that you needed to submit documentation of your income to confirm your eligibility for the Essential Plan, and 2) that you did not submit adequate income documentation. Additionally, NYSOH’s notification of your disenrollment from your Essential Plan coverage left you with enough time to submit sufficient documentation to prevent any gap in your Essential Plan coverage, and your failure to review this notice was not attributable to any action or inaction by NYSOH.

The March 8, 2017 eligibility determination and March 9, 2017 disenrollment notices, stating that you are no longer eligible for the Essential Plan as of April 1, 2017 because you failed to submit documentation, are AFFIRMED.

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

Your account confirms that you updated your application and selected an Essential Plan for enrollment on April 14, 2017.

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.

On April 14, 2017, you selected an Essential Plan, and your enrollment properly became effective on the first day of the following month; that is, on May 1, 2017

Therefore, the April 15, 2017 eligibility determination notice, and the April 15, 2017 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective May 1, 2017, are correct and must be AFFIRMED.

Decision

The March 8, 2017 notice of eligibility determination is AFFIRMED.

The March 9, 2017 notice of disenrollment is AFFIRMED.

The April 15, 2017 eligibility determination notice is AFFIRMED.

The April 15, 2017 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: August 9, 2017

How this Decision Affects Your Eligibility

NYSOH properly disenrolled you from your Essential Plan coverage, effective March 31, 2017, for failure to submit income documentation.

NYSOH properly found that your reenrollment in your Essential Plan coverage began on May 1, 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:

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).

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 March 8, 2017 notice of eligibility determination is AFFIRMED.

The March 9, 2017 notice of disenrollment is AFFIRMED.

The April 15, 2017 eligibility determination notice is AFFIRMED.

The April 15, 2017 enrollment confirmation notice is AFFIRMED.

NYSOH properly disenrolled you from your Essential Plan coverage, effective March 31, 2017, for failure to submit income documentation.

NYSOH properly found that your reenrollment in your Essential Plan coverage began on May 1, 2017.

Legal Authority

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).

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 مجانًا.

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. y&b&tumi 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.

שׂוֹדֵשׁ (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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