



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

Notice of Decision

Decision Date: September 7, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018683 and AP000000019678

[REDACTED]

Dear [REDACTED],

On August 15, 2017, you appeared by telephone, with your attorney present, at a hearing on your appeal of NY State of Health's April 4, 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 NY State of Health 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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Issues

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

Did NY State of Health properly determine that your eligibility for the Essential Plan ended effective April 30, 2017?

Did NY State of Health properly determine that your eligibility for and re-enrollment in the Essential Plan was effective June 1, 2017?

Procedural History

On December 28, 2016, NY State of Health (NYSOH) issued an eligibility determination notice, based on your December 27, 2016 application, stating that you were eligible to enroll in the Essential Plan for a limited time with a monthly premium of \$20.00, effective February 1, 2017. The notice stated that, “[t]his means that you must return required document(s) to NY State of Health to continue your eligibility.” The notice further indicated that NYSOH needed more information to confirm the information in your application and to confirm your eligibility. Lastly, the notice directed you to provide documentation confirming your income before March 27, 2017.

Also on December 28, 2016, NYSOH issued a plan enrollment notice, based on your December 27, 2016 plan selection, confirming your enrollment in an Essential Plan, effective February 1, 2017.

No income documentation was submitted by March 27, 2017.

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On April 4, 2017, NYSOH issued an eligibility determination notice stating that, if you qualified for a special enrollment period, you were newly eligible to purchase a qualified health plan at full cost, effective May 1, 2017. The notice further stated that you did not qualify for Medicaid, Child Health Plus, or the Essential Plan, and were not eligible to receive the advance payment of the premium tax credit or cost-sharing reductions to help pay for the cost of coverage through NY State of Health. This is because NY State of Health did not receive the income documentation needed to verify the income listed in your application, the date to send in this information had passed, and your eligibility for help paying for health coverage could not be confirmed without this information.

Also on April 4, 2017, NYSOH issued a disenrollment notice stating that your Essential Plan would end effective April 30, 2017, because you were no longer eligible for that plan.

On May 2, 2017, NYSOH issued an eligibility determination notice, based on your May 1, 2017 updated application, stating that you were eligible to enroll in the Essential Plan with a monthly premium of \$20.00, effective June 1, 2017.

Also on May 2, 2017, NYSOH issued a plan enrollment notice, based on your May 1, 2017 plan selection, confirming your enrollment in an Essential Plan, effective June 1, 2017.

On May 4, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your Essential Plan insofar as your coverage began on June 1, 2017 and not May 1, 2017.

On August 15, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit and with your attorney present. 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 testimony, at all times relevant, you receive all your notices from NYSOH via electronic mail.
- 2) You testified that you did receive the December 28, 2016 eligibility determination notice; however, you did not receive any notice stating that your eligibility was only conditional and that you needed to provide documentation of your household's income before March 27, 2017.
- 3) You testified that the notices were being sent to an email account that you have not utilized in over one year.

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- 4) According to your NYSOH account, on May 4, 2017, you update your contact information and requested that NYSOH send notices to you by regular mail.
- 5) According to your NYSOH account, you did not submit income documentation.
- 6) Your NYSOH account indicates that, on April 3, 2017, your eligibility was systematically run after the March 27, 2017 deadline to submit income documentation had passed, you were found no longer eligible for financial assistance as of May 1, 2017, and you were dis-enrolled from your Essential Plan as of April 30, 2017. The basis for your ineligibility was that you had not provided proof of your household income.
- 7) On May 1, 2017, you updated your application for financial assistance and were found fully eligible for the Essential Plan as of June 1, 2017.
- 8) You testified that you never received notice that you were being disenrolled from your health plan. You realized you were disenrolled on [REDACTED], when you were advised by your doctor's office at an appointment you had that day.
- 9) You testified that you are seeking enrollment in the Essential Plan to begin as of May 1, 2017 because you have 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 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 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 re-determine 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)).

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>).

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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)).

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 and enrollment in health insurance through NYSOH ended effective April 30, 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 is required to determine whether individuals are eligible to enroll in coverage through NYSOH and must confirm, among other things, that their income information is accurate.

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 28, 2016, you were advised that you were eligible for the Essential Plan for a limited time and that you needed to confirm your income with documentary proof before March 27, 2017.

The record reflects that NYSOH did not receive the income documentation before the March 27, 2017 deadline.

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).

You testified that you did receive the December 28, 2016 eligibility determination notice; however, you did not receive any notice stating that your eligibility was only conditional and that you needed to provide documentation of your household's income before March 27, 2017.

The December 28, 2016 eligibility determination notice and the notice that informed you that you needed to provide proof of income is one in the same. That notice states that your eligibility for the Essential Plan "...means that you must return required document(s) to NY State of Health to continue your eligibility." The notice further indicated that NYSOH needed more information to confirm the information in your application and to confirm your eligibility. Lastly, the notice directed you to provide documentation confirming your income before March 27, 2017.

Therefore, it is concluded that NYSOH properly notified you of an inconsistency in your account and provided you with 90 days to resolve the inconsistency in your income as of the December 28, 2016 eligibility determination notice.

Since the requested income documentation was not received within the 90-day period, NYSOH was required to re-determine your eligibility without verification of your income. As such, NYSOH properly determined that you were no longer eligible for financial assistance to help pay for the cost of health insurance but that you could purchase a qualified health plan at full cost through NY State of Health effective May 1, 2017, if you qualified for a special enrollment period. This was because you did not provide the income information requested by NYSOH.

You testified that you did not receive the April 4, 2017 disenrollment notice. While you testified and the record reflects that, all times relevant, you elected to receive alerts regarding notices from NYSOH electronically, you further testified that NYSOH sent your notices to an email address that you had not utilized for over a year. Your failure to update your account with a current email address is not a mistake or error attributable to the NYSOH, its entities or representatives. Therefore, it is concluded that NYSOH did properly notify you of your disenrollment and the need to update your account.

Therefore, NYSOH's April 4, 2017 eligibility determination and disenrollment notices are correct and must be AFFIRMED.

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

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. 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.

In addition, 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 May 1, 2017, you submitted an updated application, were redetermined eligible for the Essential Plan without condition, and selected an Essential Plan, so your eligibility for and enrollment in the Essential Plan properly took effect on the first day of the month following May 2017; that is, on June 1, 2017.

Therefore, the May 2, 2017 eligibility determination and plan enrollment notices stating respectively that your eligibility for and enrollment in the Essential Plan were effective June 1, 2017, are correct and must be AFFIRMED.

Decision

The April 4, 2017 eligibility determination and disenrollment notices are AFFIRMED.

The May 2, 2017 eligibility determination and plan enrollment notices are AFFIRMED.

Effective Date of this Decision: September 7, 2017

How this Decision Affects Your Eligibility

NYSOH properly found you ineligible for financial assistance to help pay for the cost of health insurance and disenrolled you from your Essential Plan, effective April 30, 2017, because you did not provide income documentation to confirm your eligibility by the required deadline.

The next effective date of your eligibility for and enrollment in an Essential Plan is June 1, 2017.

You did not have health insurance coverage through NYSOH during the month of May 2017.

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).

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

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The April 4, 2017 eligibility determination and disenrollment notices are **AFFIRMED**.

NYSOH properly found you ineligible for financial assistance to help pay for the cost of health insurance and disenrolled you from your Essential Plan, effective April 30, 2017, because you did not provide income documentation to confirm your eligibility by the required deadline.

The May 2, 2017 eligibility determination and plan enrollment notices are **AFFIRMED**.

The next effective date of your eligibility for and enrollment in an Essential Plan is June 1, 2017.

You did not have health insurance coverage through NYSOH during the month of May 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 مجانًا.

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).

বাংলা (Bengali)

এই নথি গুরুত্বপূর্ণ। আপনি যদি এটি বুঝতে সাহায্যের প্রয়োজন হয়, তবে দয়া করে 1-855-355-5777-এ কল করুন। আমরা আপনার ভাষায় একটি ব্যক্তিগত ব্যাচেলর প্রদান করতে সক্ষম।
এই নথি গুরুত্বপূর্ণ। আপনি যদি এটি বুঝতে সাহায্যের প্রয়োজন হয়, তবে দয়া করে 1-855-355-5777-এ কল করুন। আমরা আপনার ভাষায় একটি ব্যক্তিগত ব্যাচেলর প্রদান করতে সক্ষম।

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 bεtumi ama wo obi a okyerε 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)

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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 דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.