



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

Notice of Decision

Decision Date: May 31, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019024

[REDACTED]

[REDACTED]

Dear [REDACTED]

On May 30, 2017, you appeared by telephone, with your attorney present, at an expedited hearing on your appeal of NY State of Health's February 21, 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 NY State of Health Account ID at the top of this notice.

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).

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).

This page intentionally left blank.



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

Decision

Decision Date: May 31, 2017



Issue


The issue presented for review by the Appeals Unit of NY State of Health is:

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

Procedural History

On November 17, 2016, NYSOH issued a notice, based on your November 16, 2016 application, stating that you were eligible to enroll in the Essential Plan with a premium of \$20 per month for a limited time, effective January 1, 2017. That notice also stated that you must provide proof of household income by February 14, 2017.

Also on November 17, 2016, NYSOH issued a plan enrollment notice, based on your November 16, 2016 plan selection, confirming your enrollment in an Essential Plan, effective January 1, 2017.

On February 1, 2017 and February 16, 2017, you submitted 4 consecutive paystubs from your employer (see Document ). These documents were invalidated as illegible by NYSOH on February 28, 2017.

On February 21, 2017, NYSOH issued a notice stating that you were eligible for an advance payment of the premium tax credit in an amount of up to \$260.00 per month, effective April 1, 2017. That notice also stated that you must pick a plan.

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).

Also on February 21, 2017, NYSOH issued a disenrollment notice stating that your Essential Plan would end effective March 31, 2017. This was because you were no longer eligible for that plan.

On March 1, 2017, NYSOH issued a notice stating that additional information was needed to make an eligibility determination for you.

On May 17, 2017, NYSOH issued a notice, based on your May 16, 2017 updated application, stating that you were eligible to enroll in the Essential Plan with a monthly premium of \$20.00, effective July 1, 2017.

Also on May 17, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your Essential Plan insofar as your coverage began on July 1, 2017 and not June 1, 2017.

On May 30, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your request to amend the appeal to have the Essential Plan begin on April 1, 2017 instead of June 1, 2017 was granted and testimony was received. 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 regular mail.
- 2) You testified that you did receive the November 17, 2016 notice stating that your eligibility was only conditional and that you needed to provide documentation of your household's income before February 14, 2017. You testified that you sent proof of income documentation by both fax and regular mail to NYSOH.
- 3) According to your NYSOH account, on February 1, 2017 and February 16, 2017, you submitted the same 4 consecutive paystubs from your employer (see Document [REDACTED]). These documents were invalidated as illegible by NYSOH on February 28, 2017.
- 4) The application that you submitted on November 16, 2016, listed an annual household income of \$22,880.00. You testified that this was correct.

- 5) The documents you submitted on February 1, 2017 and February 16, 2017 show that you earn \$11.00 per hour and work approximately 40 hours per week, which equals an expected annual household income of \$22,880.00 (\$11.00 x 40 hours x 52 weeks).
- 6) Your NYSOH account indicates that, on February 21, 2017, your eligibility was systematically run and you were found no longer eligible for the Essential Plan as of March 31, 2017 and were disenrolled from your Essential Plan as of March 31, 2017. The basis for this was that you were no longer eligible for the Essential Plan because you were newly eligible for an advance payment of the premium tax credit.
- 7) On May 16, 2017, you updated your application for financial assistance and were found fully eligible for the Essential Plan, effective July 1, 2017.
- 8) You testified that you are seeking enrollment in the Essential Plan to begin as of April 1, 2017 because you are concerned about the tax penalty and did pay out of pocket for one doctor's visit. You also have an urgent medical need and on that basis, the hearing was expedited.

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)).

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).

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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your eligibility for and enrollment in health insurance through NYSOH 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 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.

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).

In the eligibility determination issued on November 17, 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 February 14, 2017.

You testified that you did receive the notice from NYSOH telling you that you needed to provide proof of income to confirm your eligibility. In fact, on February 1, 2017 and February 16, 2017, you submitted proof of your household income.

However, on February 20, 2017, prior to your proof of income being validated, your eligibility was systematically run and you were found no longer eligible for the Essential Plan as of March 31, 2017 and were terminated as of March 31, 2017. The basis for this was that you were newly eligible for an advance payment of the premium tax credit.

On February 28, 2017, your documentation was invalidated by NYSOH as illegible.

However, although the documentation is grainy and difficult to read, there is sufficient legible information on the four paystubs you submitted to ascertain your income to be \$22,880.00 annually, based on \$11.00 per hour and 40 hours per week. Since your proof of income was sufficiently legible, your expected 2017 annual income in your application could be ascertained before the deadline to submit proof of income. The amount of \$22,880.00 also matched what was listed on your November 17, 2016 application. As such, your eligibility for the Essential Plan should not have been terminated as of March 31, 2017.

Therefore, the February 21, 2017 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan effective April 1, 2017, and to notify you accordingly.

Decision

The February 21, 2017 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan effective April 1, 2017, and to notify you accordingly.

Effective Date of this Decision: May 31, 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).

How this Decision Affects Your Eligibility

Your coverage in your Essential Plan should not have been terminated, effective March 31, 2017.

Your case is being sent back to NYSOH to reinstate your coverage in your Essential Plan effective April 1, 2017. NYSOH will notify you once this has been achieved.

You will be responsible to pay any premiums due to the health plan directly for the months in which coverage has been reinstated.

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 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 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 21, 2017 eligibility determination and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your coverage in your Essential Plan effective April 1, 2017, and to notify you accordingly.

Your coverage in your Essential Plan should not have been terminated, effective March 31, 2017.

Your case is being sent back to NYSOH to reinstate your coverage in your Essential Plan effective April 1, 2017. NYSOH will notify you once this has been achieved.

You will be responsible to pay any premiums due to the health plan directly for the months in which coverage has been reinstated.

Legal Authority

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:

[REDACTED]

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 এটি বুঝতে সাহায্যের জন্য 1-855-355-5777-এ কল করুন।
আমরা আপনার ভাষায় একটি ব্যক্তিগত ব্যাচেলর প্রদান করতে পারি।
স্বাভাবিকভাবেই, আমরা আপনাকে 1-855-355-5777-এ কল করে সাহায্য করতে 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 srɛ wo, frɛ 1-855-355-5777. yɛbɛtumi 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)

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).

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.