



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

## Notice of Decision

Decision Date: October 2, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019404

[REDACTED]

Dear [REDACTED],

On September 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 25, 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 at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(b).

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: October 2, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019404

[REDACTED]

## 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 financial assistance and your, your spouse, and your adult child's (family) enrollment in your gold-level qualified health plan (QHP) ended effective April 30, 2017?

## Procedural History

On January 19, 2017, NYSOH issued an eligibility determination notice, based on your family's January 18, 2017 initial application, stating that you were conditionally eligible to enroll in a QHP at full cost and your spouse and adult child were eligible to enroll in a QHP at full cost, effective February 1, 2017. The notice further directed you to provide documentation confirming your citizenship status and Social Security number before April 18, 2017.

Also on January 19, 2017, NYSOH issued a plan enrollment notice confirming your family's enrollment in a gold-level QHP, effective February 1, 2017.

No documentation was received by NYSOH before April 18, 2017.

On April 25, 2017, NYSOH issued an eligibility determination notice stating that you alone were not eligible for Medicaid, Child Health Plus or the Essential Plan, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance, and could not enroll in a QHP at full cost. The reason stated was because you had not confirmed your citizenship status and Social Security

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number within the required timeframe. Your eligibility for coverage ended effective May 1, 2017.

In a separate April 25, 2017 eligibility determination notice, your spouse and adult child were determined eligible to purchase a qualified health plan at full cost through NYSOH, effective June 1, 2017, if they qualified for a special enrollment period.

Also on April 25, 2017, NYSOH issued a disenrollment notice stating your family's gold-level QHP would end effective April 30, 2017. The reason stated was because your family was no longer eligible for health insurance through NYSOH.

On May 9, 2017, NYSOH received a copy of your U.S. Passport, which was subsequently verified by NYSOH on May 31, 2017 (see Document [REDACTED]).

On May 10, 2017 and June 1, 2017, NYSOH issued two eligibility determination notices, based on your updated May 9, 2017 and May 31, 2017 applications, stating in part that your family may be able to enroll in coverage if they qualify for a special enrollment period.

Also on June 1, 2017, you spoke to NYSOH's Account Review Unit and appealed the April 25, 2017 eligibility determination notice insofar as it ended your family's eligibility for and enrollment in a QHP. You also appealed your family's inability to re-enroll in a health plan.

On June 2, 2017, an eligibility determination notice was issued based on your family's updated application on June 1, 2017. The notice stated that your family was eligible for a QHP at full cost, effective July 1, 2017, but did not qualify to select a health plan outside of the open enrollment period for 2017.

On June 6, 2017, NYSOH issued a plan enrollment notice confirming your family's enrollment in a in a gold-level QHP, effective July 1, 2017.

On September 6, 2017, you had a telephone hearing with a Hearing Officer from the Marketplace'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, you receive all your notices from NYSOH via electronic mail.

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- 2) You testified that you did not receive any notice from NYSOH telling you that you needed to submit documentation in order to confirm your citizenship status and Social Security number.
- 3) You testified that you first realized that you were disenrolled from health insurance when you were either unable to fill a prescription at the pharmacy or were advised by your doctor.
- 4) You testified that you called NYSOH and were advised by a NYSOH representative that your citizenship documentation was requested because, although you were married in 2009, you never changed your last name on your Social Security card.
- 5) The record reflects that NYSOH received documentation of your citizenship status on May 9, 2017. Your U.S. Passport indicates you were born in New York, USA (see Document [REDACTED]).
- 6) You testified that you are seeking reinstatement of your family's QHP for the remainder of 2017.
- 7) According to a written note on your NYSOH account, dated June 5, 2017, your family was granted Aid to Continue. Your family was reinstated in your gold-level QHP as of May 1, 2017 during the appeal process.
- 8) According to the Enrollment History Tab in your NYSOH account, your family was reinstated in coverage as of May 1, 2017.
- 9) The record shows the application that was submitted on January 18, 2017, indicates that you are a U.S Citizen and includes your Social Security number.
- 10) Your family resides in [REDACTED], New York.

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

## **Applicable Law and Regulations**

### Citizenship and Immigration Status

To enroll in a QHP 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

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noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

NYSOH must verify or obtain information to determine that an applicant is eligible for enrollment in a QHP, 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 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 5-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)).

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or 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 within 1 day of the notice being generated (45 CFR §155.230(d); 42 CFR §435.918(b)(3) and (4)). If an electronic notice is undeliverable, NYSOH must send a notice by regular mail within three business days of the date of a failed electronic communication (42 CFR §435.918(b)(5)).

## **Legal Analysis**

The issue under review is whether the NYOSH properly terminated your family's gold-level QHP, effective April 30, 2017, for your failure to verify your citizenship status and Social Security number.

The record indicates that the application that was submitted on January 18, 2017, indicates you are a U.S. citizen and included your Social Security number.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that their citizenship status is satisfactory.

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If NYSOH cannot verify an individual's citizenship status, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency. For purposes of verifying citizenship, notice is considered received five days after the date on the notice.

The record reflects that NYSOH did not receive the requested citizenship documentation before the deadline.

Since you elected to receive communications from NYSOH electronically, NYSOH was required to post notices to your electronic account within one business day of notice generation. It was also required to send an e-mail or other electronic communication alerting you that a notice had been posted to your account.

You credibly testified that you did not receive the January 19, 2017 eligibility determination notice asking you to provide citizenship documentation and your Social Security number to NYSOH. That notice was posted to your account, but the record contains no evidence that NYSOH sent the required e-mail alert to tell you that it was available in your account for your review. The record also does not indicate whether, if the electronic alert was not delivered, a paper notice was sent by regular mail within three business days of the date of a failed electronic communication.

You further credibly testified that you did not receive any e-mails telling you that the April 25, 2017 notices were available in your NYSOH account or that your health coverage was being discontinued. Nor is there any evidence that an electronic alert was sent or failed resulting in a paper notice being mailed to you within the next 3 days.

Lacking such evidence, it is concluded that you did not receive notices regarding the need for additional information to confirm your eligibility through NYSOH or your family's loss of eligibility and resultant disenrollment from your QHP.

Accordingly, the April 25, 2017 eligibility determination notice stating you were not eligible to enroll in a qualified health plan or receive financial assistance because you did not provide additional documentation within the required timeframe is not supported by the record and is **RESCINDED**.

Similarly, the April 25, 2017 eligibility determination stating your spouse and adult child were eligible to purchase a qualified health plan at full cost through NYSOH, effective June 1, 2017, if they qualified for a special enrollment period was improper and, therefore, is **RESCINDED**.

Lastly, the April 25, 2017 disenrollment notice stating that your family was disenrolled from their QHP, effective April 30, 2017, was improper and is **RESCINDED**.

On May 9, 2017, after you became aware of the inconsistency in your account, you provided a copy of your U.S. passport to NYSOH, which was subsequently verified by NYSOH on May 31, 2017.

You testified that you wish to resume coverage in the same QHP that began February 1, 2017. At present, your family is enrolled in your gold-level health coverage as of May 1, 2017 under Aid to Continue during the appeal process.

Your case is **RETURNED** to NYSOH to adjust your family's enrollment in your gold-level QHP to full eligibility and enrollment for the remainder of your health insurance year.

## **Decision**

The April 25, 2017 eligibility determination and disenrollment notices are **RESCINDED**.

At present, your family is enrolled in your gold-level health coverage, effective May 1, 2017, under Aid to Continue during the appeal process.

Your case is **RETURNED** to NYSOH to adjust your family's enrollment in your gold-level QHP to full eligibility and enrollment for the remainder of your family's health insurance year, and to notify you accordingly.

**Effective Date of this Decision:** October 2, 2017

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

NYSOH improperly disenrolled your family from your gold-level QHP.

Your case is being sent back to NYSOH to change your family's enrollment in your gold-level QHP to full eligibility and enrollment for the remainder of your family's health insurance year. NYSOH will notify you once this has been done.

## **If You Disagree with this Decision (Appeal Rights)**

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 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  
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Albany, NY 12211
- By fax: 1-855-900-5557

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## **Summary**

The April 25, 2017 eligibility redetermination and disenrollment notices are **RESCINDED**.

NYSOH improperly disenrolled your family from your gold-level QHP.

At present, your family is enrolled in your gold-level health coverage as of May 1, 2017 under Aid to Continue during the appeal process.

NYSOH is directed to change your enrollment in your gold-level QHP to full eligibility and enrollment for the remainder of your health insurance year. NYSOH will notify you once this has been done.

## **Legal Authority**

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

**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.

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## বাংলা (Bengali)

এই নথি গুরুত্বপূর্ণ। আপনি এটি বুঝতে সাহায্যের জন্য 1-855-355-5777-এ কল করুন।  
আপনার ভাষায় অনুবাদ করে দেওয়া হবে।  
1-855-355-5777-এ কল করুন।

## 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. yebetumi 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)

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.

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**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.