



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

## Notice of Decision

Decision Date: October 23, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019523

[REDACTED]

Dear [REDACTED],

On September 7, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 2, 2017 enrollment confirmation notice and the June 2, 2017 notice denying your request for retroactive coverage.

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.

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## Decision

Decision Date: October 23, 2017

NY State of Health Account ID [REDACTED]  
Appeal Identification Number: AP000000019523



## Issues

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

Did NY State of Health properly determine your enrollment in an Essential Plan was effective no earlier than July 1, 2017?

Did NY State of Health properly determine you were not eligible for retroactive Medicaid coverage for the month of May 2017?

## Procedural History

On April 14, 2016, NYSOH issued a notice of eligibility determination stating you were eligible to enroll in the Essential Plan, effective May 1, 2016. You subsequently enrolled in a plan.

On March 3, 2017, NYSOH issued a notice stating it was time to renew your health insurance for the upcoming coverage year. The notice stated that based on information from federal and state sources, NYSOH could not determine whether you qualified for financial help paying for your health coverage. The notice directed you to update your account by April 15, 2017 or you might lose the financial assistance you were currently receiving.

No updates were received by April 15, 2017 and NYSOH redetermined your eligibility for financial assistance with health insurance.

On April 17, 2017, NYSOH issued an eligibility determination notice stating you were newly eligible to purchase a qualified health plan at full cost through

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NYSOH, effective May 1, 2017. The notice indicated you were not eligible for financial assistance because you did not respond to the renewal notice.

Also on April 17, 2017, NYSOH issued a disenrollment notice stating your enrollment in your Essential Plan was terminated, effective April 30, 2017.

On May 12, 2017, NYSOH issued an eligibility determination notice, based on your May 11, 2017 updated application, stating you were eligible for the Essential Plan with a \$20.00 monthly premium, effective June 1, 2017.

On June 1, 2017, NYSOH received another updated application for financial assistance with health insurance submitted on your behalf.

On June 2, 2017, NYSOH issued an eligibility determination notice stating you were eligible for the Essential Plan with a \$20.00 monthly premium, effective June 1, 2017.

Also on June 2, 2017, NYSOH issued an enrollment notice, based on your June 1, 2017 plan selection, confirming you were enrolled in an Essential Plan, effective July 1, 2017.

Additionally, on June 2, 2017, NYSOH issued a notice stating your request for retroactive coverage for the month of May 2017 was denied, because the program you were eligible for could not pay for any care you received in the past.

On June 6, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your reenrollment in your Essential Plan insofar as it was not effective May 1, 2017.

On September 7, 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) NYSOH issued a notice of renewal on March 3, 2017 directing you to update your account by April 15, 2017. You testified you do not know if you received this notice. You further testified that you did not know you had to renew your coverage by April 15, 2017.
- 2) You testified, and your account confirms, you receive your communication from NYSOH by regular mail.

- 3) You confirmed the mailing address listed on the March 3, 2017 renewal notice was your correct mailing address and there is no record of any notice issued to you by NYSOH being returned as undeliverable.
- 4) According to your account, no updates were received by NYSOH by the April 15, 2017 deadline and you were disenrolled from your Essential Plan, effective April 30, 2017.
- 5) An updated application was submitted on your behalf on May 11, 2017, but no new plan enrollments were submitted that day.
- 6) The Appeals Unit reviewed the telephone call recording from May 11, 2017 and concluded the following:
  - a. You indicated that you recently learned that your coverage had been terminated and you wanted to “get coverage again.”
  - b. The NYSOH representative updated your application and indicated that you were eligible for the Essential Plan beginning June 1, 2017.
  - c. You stated that you were “asking about recent coverage [you] had that was denied.”
  - d. The NYSOH representative indicated your prior coverage was terminated because you “didn’t do your renewal.”
  - e. You stated “I have no idea what we’re talking about, so I guess we’re done here. I’ll call you back.”
  - f. The call was subsequently disconnected and you did not enroll in a new Essential Plan that day.
- 7) According to your account, another updated application was submitted on your behalf on June 1, 2017 and you selected a new Essential Plan for enrollment that day. Coverage through that plan became effective on July 1, 2017.
- 8) Your June 1, 2017 application requested retroactive coverage for the month of May 2017. The application indicated you had no income in May 2017.
- 9) NYSOH denied your request for retroactive coverage for the month of May 2017, purportedly because the program you were eligible for could not pay for any care you received in the past. You testified you are seeking review of that denial and the issue under appeal was amended accordingly.

- 10) You testified that your income consists of a monthly Social Security benefit payment in the amount of \$1,000.00 and \$675.00 in monthly rental income.
- 11) You testified your gross monthly income for the month of May 2017 was \$1,675.00 including your Social Security benefit payment and rental income.
- 12) You testified, and your application indicates, you will file your 2017 tax return with a tax filing status of single and you will claim no dependents.
- 13) Your application does not indicate you will take any deductions on your 2017 tax return.
- 14) According to your account, you had a gap in coverage for the months of May and June 2017. You testified you have outstanding medical bills from May.
- 15) You testified you are seeking to have coverage through your Essential Plan backdated to May 1, 2017, because you were unaware that you had to renew your coverage by April 15, 2017. Alternatively, you are seeking retroactive Medicaid coverage for the month of May 2017.
- 16) You testified that you had surgery on [REDACTED] resulting in cognitive deficits, so you were unable to renew your coverage in time.

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

## **Applicable Law and Regulations**

### Essential Plan Renewal

In general, NYSOH will review Essential Plan eligibility no more frequently than once every 12 months from the effective date of eligibility as long as enrollees are under age 65, not enrolled in minimum essential coverage, remain state residents, and do not have any changes in circumstances. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12 month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid Social Security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or changes in circumstances (42 CFR § 600.340(a); 42 CFR § 600.320(d); NY Social Services Law § 369-gg(3) and (4)(d)); New York's Basic Health Plan Blueprint, pp. 8 and 16, as approved January 2016; see [www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf](http://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf)).

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NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (42 CFR § 600.340(e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (42 CFR § 600.345; (NY Social Services Law § 369-gg(4)(c); 45 CFR § 155.335(g); New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; see [www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf](http://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf)).

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>).

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)).

### Medicaid for Adults between the Ages of 19 and 65

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2016 FPL, which is \$11,880.00 for a one-person household (81 Fed. Reg. 4036).

### Retroactive Medicaid

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of an initial application if the individual

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received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied (42 USCA § 1396A(34); 42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your subsequent enrollment in your Essential Plan was effective no earlier than July 1, 2017.

You were originally found eligible for the Essential Plan, effective May 1, 2016.

Generally, NYSOH will redetermine a qualified individual's eligibility for the Essential Plan once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's March 3, 2017 renewal notice stated there was not enough information available to determine whether you were eligible to continue your financial assistance for health insurance, and that you needed to supply additional information by April 15, 2017, or your financial assistance might end.

Because there was no timely response to this notice, you were disenrolled from your Essential Plan effective April 30, 2017.

You testified that you do not recall receiving any notice from NYSOH telling you that you needed to update the information in your NYSOH account. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, you confirmed that the mailing address listed on the March 3, 2017 renewal notice was your correct mailing address and there is no record of any of notices issued to you by NYSOH being returned as undeliverable. Therefore, the evidence establishes that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated to ensure your enrollment in your health plan and eligibility for financial assistance would continue.

Although you testified that you had surgery on [REDACTED] resulting in cognitive deficits, so you were unable to renew your coverage in time, this would have occurred after the March 3, 2017 notice was issued and after the April 15, 2017 deadline in which to renew your coverage had passed. Thus, according to the evidence, any such subsequent condition would not have had a bearing on your ability to timely renew your coverage by April 15, 2017.



The record shows that you updated your application on May 11, 2017 and you were determined eligible for the Essential Plan, effective June 1, 2017. However, you did not select a new plan that day. A review of the telephone recording from that day confirms you disconnected the call prior to selecting a plan, indicating you would call back. According to your account, you did not call back to select a new Essential Plan until June 1, 2017.

The date on which the Essential Plan can take effect depends on the day a person selects the plan for enrollment.

Pursuant to the regulations, 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 after the fifteenth day of a month goes into effect on the first day of the second following month.

Since you selected your new Essential Plan on June ,1 2017, before the fifteenth day of the month, it properly took effect on the first day of the next following month; that is, on July 1, 2017.

Therefore, NYSOH's June 2, 2017 enrollment confirmation notice stating your subsequent Essential Plan enrollment became effective on July 1, 2017, was correct and is AFFIRMED.

The second issue under review is whether NYSOH properly determined you were not eligible for retroactive Medicaid coverage for the month of May 2017.

During the hearing, you testified you were also seeking review of the June 2, 2017 notice denying your request for retroactive coverage for the month of May 2017 and the issue under review was amended accordingly. That notice indicated that you were not eligible for coverage for the month of May 2017, because the program you were eligible for could not pay for any care you received in the past.

Pursuant to regulations, when an individual file, an initial application for Medicaid, his or her eligibility for retroactive Medicaid depends on the date of application. It does not matter whether that initial application resulted in Medicaid eligibility going forward. Instead, an individual who has filed an initial application for Medicaid through NYSOH has the right to be evaluated for Medicaid for the three months before the month of his or her application.

Therefore, the basis for the denial of retroactive coverage for the month of May 2017, as stated in the June 2, 2017 notice, is not supported by the regulations. However, notwithstanding, the record establishes that you were not eligible for retroactive Medicaid coverage for the month of May 2017.

You testified your gross monthly income for the month of May 2017 was \$1,675.00, including your monthly Social Security benefit payment and rental income, and the evidence establishes that you are in a one-person household.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. To be eligible for Medicaid in May 2017, you would have needed to meet the non-financial criteria and have a household income no greater than 138% of the application FPL, which is \$1,387.00 per month. It is noted that there is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during May 2017.

Since, based on your testimony, you earned \$1,675.00 in May 2017, over the income limit to qualify for Medicaid in that month, you are not eligible for retroactive coverage for May 2017.

Thus, the June 2, 2017 notice, to the extent it found you ineligible for retroactive coverage for the month of May 2017, was correct and is Affirmed.

## **Decision**

The June 2, 2017 enrollment confirmation notice is AFFIRMED.

The June 2, 2017 notice, to the extent it found you ineligible for retroactive coverage for the month of May 2017, is Affirmed.

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

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

This decision does not change your eligibility.

The effective date of your subsequent Essential Health Plan enrollment is July 1, 2017.

You were not eligible for retroactive Medicaid coverage for the month of May 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:

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## **Summary**

The June 2, 2017 enrollment confirmation notice is AFFIRMED.

The June 2, 2017 notice, to the extent it found you ineligible for retroactive coverage for the month of May 2017, is Affirmed.

This decision does not change your eligibility.

The effective date of your subsequent Essential Health Plan enrollment is July 1, 2017.

You were not eligible for retroactive Medicaid coverage for 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)

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### 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)

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### 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)

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।

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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 मददत चाहन्छि भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोलने 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&btumi 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.

## **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.

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