



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

Notice of Decision

Decision Date: October 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019543

[REDACTED]

Dear [REDACTED],

On September 7, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 23, 2016 eligibility determination notice and the November 26, 2016 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 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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Decision

Decision Date: October 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019543



Issues

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

Did NY State of Health (NYSOH) properly determine your eligibility for and enrollment in an Essential Plan ended effective November 30, 2016?

Procedural History

On August 12, 2016, NYSOH issued an eligibility determination notice stating you were eligible to enroll in the Essential Plan, effective September 1, 2016.

On August 16, 2016, NYOSH issued an enrollment notice confirming your enrollment in an Essential Plan, effective September 1, 2016.

On August 24, 2016, NYSOH issued an eligibility determination notice stating you were no longer eligible for health insurance through NYSOH, effective August 31, 2016, because a notice regarding your eligibility sent to the mailing address listed on your account had been returned as undeliverable. The notice directed you to update your mailing address with NYSOH so you could remain eligible for coverage.

Also on August 24, 2016, NYSOH issued a cancellation notice indicating your Essential Plan enrollment was terminated, effective September 1, 2016, because you were no longer eligible for health insurance through NYSOH.

On August 24, 2016, NYSOH received an updated application for health insurance submitted on your behalf.

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On August 25, 2016, NYSOH issued an eligibility determination notice stating you were eligible to enroll in the Essential Plan, effective October 1, 2016.

Also on August 25, 2016, NYSOH issued an enrollment notice, based on your August 24, 2016 plan selection, confirming you were enrolled in an Essential Plan, effective October 1, 2016.

NYSOH issued an updated enrollment notice on November 2, 2016, confirming your enrollment in your Essential Plan became effective September 1, 2016.

On November 23, 2016, NYSOH issued an eligibility determination notice stating you were no longer eligible for health insurance through NYSOH, effective December 1, 2016, because a notice regarding your eligibility sent to the mailing address listed on your account had been returned as undeliverable. The notice directed you to update your mailing address with NYSOH so you could remain eligible for coverage.

On November 26, 2016, NYSOH issued a disenrollment notice stating your Essential Plan coverage would end, effective November 30, 2016, because you were no longer eligible for health insurance through NYSOH.

On November 29, 2016, NYSOH received an updated application for health insurance submitted on your behalf.

On November 30, 2016, NYSOH issued an eligibility determination notice stating you were eligible to enroll in the Essential Plan, for a limited time, effective October 1, 2016. The notice directed you to submit proof of your income by February 27, 2017 or you might lose your insurance or receive less help paying for your coverage.

Also on November 30, 2016, NYSOH issued an enrollment notice, based on your November 29, 2016 plan selection, confirming you were enrolled in an Essential Plan, effective January 1, 2017.

On June 5, 2017, a formal appeal was filed on your behalf insofar as your subsequent enrollment in your Essential Plan was not effective December 1, 2016.

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) You enrolled in an Essential Plan, effective [REDACTED].
- 2) According to your account, your mailing address was marked invalid by NYSOH on August 23, 2016 and you were systematically disenrolled from your Essential Plan coverage.
- 3) On August 24, 2016, NYSOH posted to your account several notices returned to NYSOH as undeliverable issued to the mailing address listed on your account between April and July 2016. The notices were stamped "Return Mail" on August 3, 2016.
- 4) On August 24, 2016, NYSOH received an updated application submitted on your behalf. You reenrolled in an Essential Plan that day. Coverage through that plan was effective on October 1, 2016.
- 5) On August 24, 2016, [REDACTED] was created regarding your request to backdate your Essential Plan coverage to September 1, 2016. Your request was approved on November 3, 2016 and your subsequent Essential Plan enrollment was made effective September 1, 2016.
- 6) Several additional returned notices issued between July and September 2016 to the mailing address listed in your account were posted to your NYSOH account on several dates between September 15, 2016 and November 21, 2016.
- 7) On November 21, 2016, your mailing address was marked invalid again by NYSOH and your Essential Plan enrollment was systematically deleted, effective November 30, 2017.
- 8) On November 29, 2016, NYSOH received an updated application submitted on your behalf and you reenrolled in an Essential Plan the same day. Your coverage through this enrollment became effective on January 1, 2017.
- 9) You had a gap in coverage for the month of December 2016. You testified you have outstanding medical bills from that month.
- 10) You testified that you had the same mailing address in all of 2016. You verified the mailing address listed on the returned notices was your correct mailing address at the time. You testified that you were receiving other mail at that address and only had issues receiving mail from NYSOH.

- 11) According to your account, there is no record of any notice issued to you by NYSOH after September 1, 2016 being returned as undeliverable.
- 12) You testified you are seeking to have your coverage through your subsequent Essential Plan enrollment backdated to December 1, 2016.
- 13) On February 27, 2017, [REDACTED] was created regarding your request to backdate your subsequent Essential plan enrollment to December 1, 2016. Notes relative to that incident indicate your request was denied on May 6, 2017, because "Applicant is not currently enrolled in coverage, therefore, DOH cannot backdate enrollment start date. On [REDACTED], coverage for this applicant was terminated."
- 14) Your account confirms that your subsequent Essential Plan enrollment was terminated, effective [REDACTED], because you updated your application increasing your attested income and you were no longer eligible for the Essential Plan.
- 15) A formal appeal was filed on your behalf on [REDACTED].

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

Applicable Law and Regulations

Essential Plan Eligibility

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).

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

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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)).

Legal Analysis

The issue under review is whether NYSOH properly determined your eligibility for and enrollment in an Essential Plan ended, effective November 30, 2016.

Your account confirms you enrolled in an Essential Plan, effective September 1, 2016, but that enrollment was subsequently terminated after several notices issued to the mailing address listed on your account were returned to NYSOH by the U.S. Postal Service as undeliverable. As a result, NYSOH marked your mailing address as invalid.

Your account confirms that an updated application was submitted on your behalf on August 24, 2016 and you reenrolled in an Essential Plan that day. However, your coverage through that plan was not effective until October 1, 2016. Consequently, [REDACTED] was created regarding your request to backdate your Essential Plan coverage to September 1, 2016. Your account confirms that your request was approved on November 3, 2016 and your Essential Plan reenrollment was made effective September 1, 2016.

Subsequently, several additional returned notices issued between July and September 2016 to the mailing address listed in your account were posted to your NYSOH account on several dates between September 15, 2016 and November 21, 2016. As a result, on November 21, 2016, your mailing address was marked invalid again by NYSOH and your Essential Plan enrollment was systematically deleted, effective November 30, 2016. Although you were able to reenroll into a plan on November 29, 2016, the coverage through that subsequent enrollment was not effective until January 1, 2017. Thus, you had a gap in health coverage for the month of December 2016.

Pursuant to the regulations, only NY State residents are eligible to enroll in the Essential Plan. According to your account, NYSOH initially determined you were no longer eligible to enroll in the Essential Plan, effective September 1, 2016, after your mailing address was marked invalid, because your status as a state resident could not be confirmed. However, your account confirms that you were able to reenroll into a plan and NYSOH agreed to backdate that plan to September 1, 2016. It is concluded that by agreeing to backdate your coverage to September 1, 2016, NYSOH conceded that your mailing address was erroneously marked invalid.

Furthermore, you testified that you had the same mailing address for all of 2016. You verified the mailing address listed on the returned notices was your correct mailing address at the time. You testified that you were receiving other mail at

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that address and only had issues receiving mail from NYSOH. The record confirms that no notice issued to the mailing address listed on your account after September 1, 2016 was returned as undeliverable. Thus, the evidence establishes that NYSOH, again, erroneously marked your mailing address as invalid on November 21, 2016. Accordingly, the November 30, 2016 termination of your Essential Plan enrollment, on the basis that your status as a New York State resident could not be confirmed, is not supported by the record.

Therefore, the November 23, 2016 eligibility determination notice and the November 26, 2017 disenrollment notice stating you were no longer eligible to enroll in the Essential Plan, effective November 30, 2016, are not correct and must be RESCINDED.

Your case is RETURNED to NYSOH to reinstate you in your Essential Plan for the month of December 2016.

Decision

The November 23, 2016 eligibility determination notice is RESCINDED.

The November 26, 2016 disenrollment notice is RESCINDED

Your case is RETURNED to NYSOH to reinstate you in your Essential Plan for the month of December 2016.

Effective Date of this Decision: October 24, 2017

How this Decision Affects Your Eligibility

You should not have been disenrolled from your Essential Plan in December 2016.

Your case is being sent back to NYSOH to reinstate your Essential Plan coverage for the month of December 2016.

IMPORTANT: You are now aware that there may be issues receiving written notices from NYSOH at the mailing address listed on your account. Therefore, you are reminded that you may receive email alerts of electronic notices posted to your NYSOH account. It is suggested that you investigate alternative methods of receiving notice, or that you frequently call NYSOH or check your on-line account to verify the status of your coverage.

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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:
NY State of Health Appeals
P.O. Box 11729

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The November 23, 2016 eligibility determination notice is RESCINDED.

The November 26, 2016 disenrollment notice is RESCINDED

Your case is RETURNED to NYSOH to reinstate you in your Essential Plan for the month of December 2016.

You should not have been disenrolled from your Essential Plan in December 2016.

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 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 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.

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.