



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: AP000000019626

[REDACTED]

Dear [REDACTED],

On September 20, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's March 1, 2017 eligibility determination notice and March 1, 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 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: October 2, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019626

[REDACTED]

Issues

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

Was your appeal of NY State of Health's March 1, 2017 eligibility determination notice and March 1, 2017 disenrollment notice timely?

Did NY State of Health properly determine that you were no longer qualified to enroll through NYSOH and terminate your Essential Plan coverage, effective March 1, 2017?

Procedural History

On January 5, 2017, NY State of Health (NYSOH), issued a renewal notice stating that you were eligible for the Essential Plan, effective March 1, 2017. This notice was mailed to [REDACTED]

Also on January 5, 2017, NYSOH issued a notice of change in mailing address, stating that NYSOH had received information from the U.S. Postal Service that your new address was [REDACTED]. This notice further stated that all notices about your eligibility and coverage with NYSOH would be mailed to this address. This notice was mailed to [REDACTED]

On January 17, 2017, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in the Essential Plan with a plan enrollment start date of [REDACTED]

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March 1, 2017. This notice was mailed to [REDACTED].

On January 25, 2017, the January 5, 2017 change of mailing address notice was returned to NYSOH as undeliverable.

On February 28, 2017, NYSOH redetermined your eligibility for financial assistance.

On March 1, 2017, NYSOH issued a notice of eligibility determination stating that you were no longer eligible for health insurance through NYSOH, effective March 2, 2017. This was because mail sent to you by NYSOH was returned as undeliverable. This notice was mailed to [REDACTED].

Also on March 1, 2017, NYSOH issued a disenrollment notice stating that your enrollment with the Essential Plan would end on March 1, 2017. This was because you were no longer eligible to enroll in health insurance through NYSOH. This notice was mailed to [REDACTED].

On May 16, 2017, you updated your application for financial assistance.

On May 17, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan, effective May 1, 2017. This notice was mailed to [REDACTED].

Also on May 17, 2017, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in the Essential Plan with a plan enrollment start date of May 1, 2017. This notice was mailed to [REDACTED].

Additionally, on May 17, 2017, NYSOH issued a notice of change in mailing address, stating that you had changed your mailing address to [REDACTED]. This notice further stated that all notices about your eligibility and coverage with NYSOH would be mailed to this address. This notice was mailed to [REDACTED].

On May 30, 2017, the notices issued on May 17, 2017 were returned to NYSOH as undeliverable.

On June 7, 2017, you updated your application for financial assistance. That day, a preliminary eligibility determination was issued stating that you were eligible to enroll in the Essential Plan for a limited time, effective July 1, 2017.

Also on June 7, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you were without coverage in your Essential Plan for the months of March 2017 and April 2017.

On June 8, 2017, NYSOH issued a notice of eligibility determination, based on the June 7, 2017 application, stating that you were eligible to enroll in the Essential Plan for a limited time, effective July 1, 2017. This notice directed you to submit income documentation by September 5, 2017 in order to confirm your eligibility for financial assistance. This notice was mailed to [REDACTED].

Also on June 8, 2017, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in the Essential Plan with a plan enrollment start date of July 1, 2017.

Additionally, on June 8, 2017, NYSOH issued a notice of change in mailing address, stating that you had changed your mailing address to [REDACTED]. This notice further stated that all notices about your eligibility and coverage with NYSOH would be mailed to this address. This notice was mailed to [REDACTED]. This notice was returned to NYSOH as undeliverable on June 19, 2017.

Furthermore, on June 8, 2017 a notice of appeal was issued confirming your appeal request on June 7, 2017. This notice was mailed to [REDACTED]. This notice was returned to NYSOH as undeliverable on June 19, 2017.

On September 11, 2017, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date.

On September 20, 2017, you had a hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the hearing. 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) Your NYSOH account reflects that on January 5, 2017 NYSOH identified that you moved addresses.
- 2) You testified that your address was [REDACTED] until November or December of 2016.

- 3) You testified that you reported your new mailing address to the U.S. Postal Service when you moved and requested to have your mail forwarded to your new address.
- 4) You testified that you moved to [REDACTED].
- 5) You testified, and your NYSOH account reflects, that you receive all of your notices from NYSOH via regular mail.
- 6) You testified that you did not receive the March 1, 2017 eligibility determination notice stating that you were no longer eligible to enroll in coverage through NYSOH nor did you receive the March 1, 2017 disenrollment notice.
- 7) You testified that you went to the doctor on [REDACTED] and the doctor's office did not advise you that you did not have coverage. It was not until you received the bill for that [REDACTED] visit, on or around [REDACTED], that you learned that your coverage had been cancelled.
- 8) Your NYSOH account reflects that on May 16, 2017 you updated your application for financial assistance and selected an Essential Plan for reenrollment that day. You testified that when you called to reenroll in coverage, you confirmed your new mailing address.
- 9) Your NYSOH account reflects that your mailing address was listed as [REDACTED] from March [REDACTED] 2015 through March [REDACTED] 2015; as [REDACTED] from May [REDACTED] 2017 through June [REDACTED] 2017; as [REDACTED] from June [REDACTED] 2017 to the present time.
- 10) You testified that you never lived at [REDACTED].
- 11) During the hearing, you gave permission for the hearing officer to listen to recordings of phone calls you had with NYSOH.
- 12) On May 16, 2017, you placed a phone call to NYSOH. A review of the recording of that phone call reveals that you indicated that your current mailing address is [REDACTED]. You also stated that your previous address was [REDACTED].
- 13) Your NYSOH account reflects that on May 16, 2017, the NYSOH representative updated your mailing address to [REDACTED].

14) No mail sent to you at [REDACTED]
[REDACTED] has been returned to NYSOH as undeliverable.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR §155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(D)).

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).

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State Residency Requirement

To be eligible for enrollment in the Essential Plan, an applicant must be a resident of New York State (New York's Basic Health Plan Blueprint, p. 15, as approved January 2017; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>, 45 CFR § 155.305(a)(3), (f)(1)(ii)(A)).

For an individual who is aged 21 or older, not living in an institution, and able to indicate intent, that individual is deemed to be a resident of the Exchange service area in which or she lives and either a) intends to reside, even without a fixed address, or b) has entered with a job commitment or is seeking employment. (45 CFR § 155.305(a)(3)(i)).

Legal Analysis

The first issue under review is whether your appeal of NYSOH's March 1, 2017 eligibility determination notice and March 1, 2017 disenrollment notice was timely.

The record reflects that you first contacted NYSOH to file a formal appeal regarding your disenrollment from your Essential Plan on June 7, 2017.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of your disenrollment from your Essential Plan, an appeal should have been filed by April 30, 2017. The record reflects that you filed your appeal on June 7, 2017, which is beyond the 60-day deadline.

Although your appeal was untimely on its face, you credibly testified that you did not receive the March 1, 2017 eligibility determination notice or the March 1, 2017 disenrollment notice. You further testified that you went to a doctor's appointment on [REDACTED] and were not advised that you had no coverage. You also testified that it was not until you received the bill for the [REDACTED] medical service on or around [REDACTED] that you became aware that you had been disenrolled from your Essential Plan.

The record also reflects that you contacted NYSOH to reenroll in coverage on May 16, 2017, shortly after learning that you had been disenrolled from your Essential Plan. You then filed your appeal within 60 days of the May 17, 2017 eligibility determination notice stating that you were again eligible for the Essential Plan as of May 1, 2017.

In light of the above facts, your failure to timely submit an appeal of the March 1, 2017 eligibility determination notice and March 1, 2017 disenrollment notice was due to exceptional circumstances and should not preclude the appeal.

The second issue is whether NYSOH properly determined that you were no longer qualified to enroll through NYSOH and terminated your Essential Plan coverage, effective March 1, 2017.

On January 5, 2017, NYSOH received information from the U.S. Postal Service that your address had changed to [REDACTED]. That day, NYSOH sent you a notice advising you that NYSOH had received information that your address had changed. This notice was sent to [REDACTED].

On January 25, 2017, the January 5, 2017 notice of change of address was returned to NYSOH as undeliverable.

As a result, NYSOH redetermined your eligibility and issued a notice stating that you were no longer eligible for health insurance through NYSOH, effective March 1, 2017. This was because mail sent to you by NYSOH had been returned as undeliverable. NYSOH also issued a disenrollment notice stating that you were disenrolled from your Essential Plan, effective March 1, 2017.

You testified that your address was [REDACTED] until November 2016 or December 2016. You testified that when you moved, you provided your new address to the U.S. Postal Service and requested that mail be forwarded to your new mailing address. You testified that you moved to [REDACTED].

The record reflects that the U.S. Postal Service made NYSOH aware of your new address on January 5, 2017. The January 5, 2017 renewal notice and January 17, 2017 enrollment confirmation notice were sent to your new address at [REDACTED] as a result of this information.

Notably, the mail that was returned to NYSOH resulting in the February 28, 2017 eligibility redetermination and March 1, 2017 disenrollment was the notice of change of address, which was intended to inform you that the U.S. Postal Service had advised NYSOH of your new address.

On May 16, 2017 your address was updated to [REDACTED]. However, the record reflects that this was an error by an NYSOH representative.

There is sufficient evidence in the record to conclude that you have continuously retained New York State residency throughout the time period in question. There is no indication in the record that there was any other basis for NYSOH to find

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you ineligible for the Essential Plan at the time of the February 28, 2017 eligibility redetermination.

Therefore, the March 1, 2017 eligibility determination notice and the March 1, 2017 disenrollment notice are RESCINDED.

Your case is RETURNED to NYSOH to reenroll you in your Essential Plan as of March 1, 2017.

Decision

The March 1, 2017 eligibility determination notice is RESCINDED.

The March 1, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reenroll you in your Essential Plan as of March 1, 2017.

Effective Date of this Decision: October 2, 2017

How this Decision Affects Your Eligibility

NYSOH incorrectly terminated your enrollment in your Essential Plan as of March 1, 2017.

Your case is being sent back to NYSOH to reenroll you in your Essential Plan as of March 1, 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

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

Summary

The March 1, 2017 eligibility determination notice is RESCINDED.

The March 1, 2017 disenrollment notice is RESCINDED.

NYSOH incorrectly terminated your enrollment in your Essential Plan as of March 1, 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).

Your case is RETURNED to NYSOH to reenroll you in your Essential Plan as of March 1, 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.

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(Bengali)

1-855-355-5777

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 srε wo, frε 1-855-355-5777. ye&εtumi 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.