



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

Notice of Decision

Decision Date: October 06, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019725

[REDACTED]

Dear [REDACTED],

On October 3, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 21, 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 and the NY State of Health 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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NY State of Health Account ID: [REDACTED]
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Issues

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

Did NY State of Health properly determine that your eligibility for the Essential Plan ended effective April 30, 2017?

Did NY State of Health properly determine that your eligibility for and re-enrollment in the Essential Plan was effective July 1, 2017?

Procedural History

On December 15, 2016, NY State of Health (NYSOH) issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan for a limited time with a monthly premium of \$20.00, effective January 1, 2017. The notice stated that, “[t]his means that you must return required document(s) to NY State of Health to continue your eligibility.” The notice further indicated that NYSOH needed more information to confirm the information in your application and to confirm your eligibility. Lastly, the notice directed you to provide documentation confirming your income before March 14, 2017.

Also on December 15, 2016, NYSOH issued a plan enrollment notice confirming your enrollment in an Essential Plan with a premium of \$47.27 per month.

No income documentation was submitted by March 14, 2017.

On March 21, 2017, NYSOH issued an eligibility determination notice stating that, if you qualified for a special enrollment period, you were newly eligible to

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purchase a qualified health plan at full cost, effective May 1, 2017. The notice further stated that you did not qualify for Medicaid, Child Health Plus, or the Essential Plan, and were not eligible to receive the advance payment of the premium tax credit or cost-sharing reductions to help pay for the cost of coverage through NYSOH. This is because NYSOH did not receive the income documentation needed to verify the income listed in your application, the date to send in this information had passed, and your eligibility for help paying for health coverage could not be confirmed without this information

Also on March 21, 2017, NYSOH issued a disenrollment notice stating that your Essential Plan coverage would end effective April 30, 2017, because you were no longer eligible for that plan.

On June 13, 2017, you updated your application for financial assistance. That day, NYSOH issued a preliminary eligibility determination stating in part that you were eligible for and enrolled in the Essential Plan as of July 1, 2017.

Also on June 13, 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 May 1, 2017.

On June 14, 2017, NYSOH issued an eligibility determination notice, consistent with the June 13, 2017 preliminary eligibility determination, stating that you were eligible to enroll in the Essential Plan with a monthly premium of \$20.00, effective July 1, 2017.

Also on June 14, 2017, NYSOH issued a plan enrollment notice, based on your June 13, 2017 plan selection, confirming your enrollment in an Essential Plan, effective July 1, 2017.

On October 3, 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) According to your NYSOH account and testimony, you receive all your notices from NYSOH via regular mail.
- 2) You testified that you did receive the December 15, 2016 eligibility determination notice; however, you did not receive any notice stating that your eligibility was only conditional and that you needed to provide documentation of your household's income before March 14, 2017.

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- 3) You testified that your mail often gets delivered to an address across the street from your address and that you have had numerous issues with the U.S. Postal Service.
- 4) No notices mailed to your mailing address have been returned to MNYSOH as undeliverable.
- 5) You did not submit documentation as proof of income by the March 14, 2017 deadline.
- 6) Your NYSOH account indicates that, on March 20, 2017, your eligibility was systematically redetermined and you were found no longer eligible for financial assistance as of May 1, 2017, and were dis-enrolled from your Essential Plan as of April 30, 2017. The basis for your ineligibility was that you had not provided proof of your household income.
- 7) You testified that you never received notice that you were being disenrolled from your health plan. You realized you were disenrolled when you went to your dentist's appointment and were informed then.
- 8) On June 13, 2017, you updated your application for financial assistance and were found fully eligible for the Essential Plan as of July 1, 2017.
- 9) You testified that you are seeking enrollment in the Essential Plan to begin as of May 1, 2017, because you are worried about a tax penalty for not having health coverage for May 2017 and June 2017.

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)).

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)).

Essential Plan Effective Date

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>).

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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)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your eligibility for and enrollment in health insurance through NYSOH ended effective April 30, 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.

In the eligibility determination issued on December 15, 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 March 14, 2017.

The record reflects that NYSOH did not receive the income documentation before the March 14, 2017 deadline.

You testified that you did receive the December 15, 2016 eligibility determination notice, however, you did not receive any notice stating that your eligibility was only conditional and that you needed to provide documentation of your household's income before March 14, 2017.

The December 15, 2016 eligibility determination notice informed you that you needed to provide proof of income. That notice states that your eligibility for the Essential Plan "...means that you must return required document(s) to NY State of Health to continue your eligibility." The notice further indicated that NYSOH

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needed more information to confirm the information in your application and to confirm your eligibility. Lastly, the notice directed you to provide documentation confirming your income before March 14, 2017.

Therefore, NYSOH did properly notify you of an inconsistency in your account and provided you with 90 days to resolve the inconsistency in your income as of the December 15, 2016 eligibility determination notice.

Since the requested income documentation was not received within the 90 day period, NYSOH was required to redetermine your eligibility without verification of your income. As such, NYSOH properly determined that you were no longer eligible for financial assistance to help pay for the cost of health insurance, but that you could purchase a qualified health plan at full cost through NYSOH, effective May 1, 2017, if you qualified for a special enrollment period. This was because you did not provide the income information requested by NYSOH.

You testified that you did not receive the March 21, 2017 disenrollment notice. According to your NYSOH account and your testimony, you elected to receive notifications by regular mail. You further testified that your mail often gets delivered to an address across the street from your address and that you have had numerous issues with the U.S. Postal Service.

However, any failure of the U.S Postal Service to deliver your mail to the proper address is not a mistake or error attributable to the NYSOH, its entities or representatives. Moreover, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable. Therefore, it is concluded that NYSOH did properly notify you of your disenrollment and the need to update your account.

Therefore, NYSOH's March 21, 2017 eligibility determination and disenrollment notices are correct and must be AFFIRMED.

The second issue under review is whether NYSOH properly determined that your eligibility for and enrollment in the Essential Plan was effective July 1, 2017.

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. 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.

In addition, the date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

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 from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

On June 13, 2017, you submitted an updated application, were re-determined eligible for the Essential Plan without condition, and selected an Essential Plan, so your eligibility for and enrollment in the Essential Plan properly took effect on the first day of the month following June 2017; that is, on July 1, 2017.

Therefore, the June 14, 2017 eligibility determination and plan enrollment notices stating that your eligibility for and enrollment in the Essential Plan was effective July 1, 2017, are correct and must be AFFIRMED.

During the hearing, you testified that you are concerned about receiving a tax penalty as a result of being without coverage in May 2017 and June 2017.

Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. You might qualify for a health coverage exemption in 2017 if you didn't have health coverage while you were waiting for an appeal decision about coverage eligibility or savings **and** your appeal was eventually successful (emphasis added).

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

You will find the information you need to claim the exemption due to an appeal decision at <https://www.healthcare.gov/exemptions-tool/#/results/2016/details/eligible-based-on-appeal>. You can also call 1-800-3182596.

Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word "pending" in column "c" and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

Decision

The March 21, 2017 eligibility determination and disenrollment notices are AFFIRMED.

The June 14, 2017 eligibility determination and plan enrollment notices are AFFIRMED.

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Effective Date of this Decision: October 06, 2017

How this Decision Affects Your Eligibility

NYSOH properly found you ineligible for financial assistance to help pay for the cost of health insurance and disenrolled you from your Essential Plan, effective April 30, 2017, because you did not provide income documentation to confirm your eligibility by the required deadline.

The next effective date of your eligibility for and enrollment in an Essential Plan is July 1, 2017.

You did not have health insurance coverage through NYSOH during the month of May 2017 and June 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 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 March 21, 2017 eligibility determination and disenrollment notices are **AFFIRMED**.

The June 14, 2017 eligibility determination and plan enrollment notices are **AFFIRMED**.

NYSOH properly found you ineligible for financial assistance to help pay for the cost of health insurance and disenrolled you from your Essential Plan, effective April 30, 2017, because you did not provide income documentation to confirm your eligibility by the required deadline.

The next effective date of your eligibility for and enrollment in an Essential Plan is July 1, 2017.

You did not have health insurance coverage through NYSOH during the month of May 2017 and June 2017.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

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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)

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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।

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. y&b&tumi ama wo obi a okyer& 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.