



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

### Notice of Decision

Decision Date: October 10, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019744

[REDACTED]

Dear [REDACTED],

On September 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 30, 2016 eligibility determination and disenrollment notices and April 11, 2017 eligibility determination and plan enrollment 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.

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## Decision

Decision Date: October 10, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019744

[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that your eligibility for the Essential Plan ended effective December 31, 2016?

Did the health plan properly deny your claims for medical treatment and care during the month of April 2017?

## Procedural History

On August 26, 2016, NY State of Health (NYSOH) issued an eligibility determination notice, based on your August 25, 2016 application, stating that you were eligible to enroll in the Essential Plan for a limited time with a monthly premium of \$20.00, effective October 1, 2016. The notice directed you to provide documentation confirming your income before November 23, 2016.

Also on August 26, 2016, NYSOH issued a plan enrollment notice confirming your enrollment in the Essential Plan with a premium of \$20.00 per month.

No income documentation was submitted by November 23, 2016.

On November 30, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan (QHP) at full cost, effective January 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

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reductions to help pay for the cost of coverage through NYSOH. This was because NYSOH did not receive the income documentation needed to verify the income listed in your application by November 23, 2016.

Also on November 30, 2016, NYSOH issued a disenrollment notice stating that your coverage with the Essential Plan would end December 31, 2016.

On April 11, 2017, NYSOH issued an eligibility determination notice, based on your April 10, 2017 updated application, stating that you were eligible to receive up to \$341.00 in advance payment of the premium tax credit (APTC) and eligible to receive cost-sharing reductions if you enrolled in a silver-level QHP, effective May 1, 2017.

Also on April 11, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a silver-level QHP with APTC and cost-sharing reductions, effective May 1, 2017.

On June 14, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your silver-level QHP insofar as your coverage began on May 1, 2017, and not April 1, 2017.

On September 13, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open to September 28, 2017 to allow you time to submit supporting documents.

On September 13, 2017, you submitted documents that were made part of the record as "Appellant's Exhibit A." On September 18, 2017, you submitted a copy of your 2016 federal income tax return. This document was made part of the record as "Appellant's Exhibit B." No further documentation was received by the NYSOH Appeals Unit as of September 28, 2017, and the record closed that day.

## **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) None of the notices issued by NYSOH were returned as undeliverable.
- 3) You testified that 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 November 23, 2016.

- 4) You did not submit proof of income documentation by the November 23, 2016 deadline and were disenrolled from your Essential Plan as of December 31, 2016.
- 5) You testified that you did not recall if you received notice that you were being disenrolled from your health plan.
- 6) You testified that, throughout the months of January 2017 through April 2017, you paid your premiums to your health plan, received medical services that were covered by your health plan, and had [REDACTED] on [REDACTED], which had been pre-authorized by your health plan (see *respectively* Appellants Exhibit A, pp. 3-6 [REDACTED]); pp. 7 – 9 ([REDACTED]); p. 2 ([REDACTED])).
- 7) On [REDACTED], you had [REDACTED].
- 8) You testified that, after [REDACTED] the health plan advised you that you were not covered and rescinded payments of related claims to the hospital. You are seeking health coverage for the month of April 2017 to pay for these bills.
- 9) As of the date of this decision, the health plan has acknowledged that they made an error internally and continued to provide coverage under your Essential Plan when they should not have. The health plan has agreed to process your claims from April 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).

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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)).

## **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 December 31, 2016.

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 notice issued on August 26, 2016, you were advised that you were eligible for the Essential Plan for a limited time, and that

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you needed to confirm your income with documentary proof before November 23, 2016.

The record reflects that NYSOH did not receive the income documentation before the November 23, 2016 deadline.

You testified that you did not receive any notice stating that your eligibility was only conditional and that you needed to provide documentation of your income before November 23, 2016. According to your NYSOH account and your testimony, you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

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 August 26, 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 NY State of Health effective May 1, 2017.

You further testified that you were unsure as to whether you received the November 30, 2016 disenrollment notice. As noted above, you elected to receive notifications by regular mail and 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 also properly notified you of your disenrollment and the need to update your account.

As such, NYSOH's November 30, 2016 eligibility determination and disenrollment notices are correct and must be **AFFIRMED**.

Secondly, it is noted that by this Decision, no finding regarding your eligibility for the Essential Plan through NYSOH for the months of January 1, 2017 through April 30, 2017 will be made, because you did not submit income documents as required and were not eligible for the Essential Plan during this period.

Notwithstanding, the health plan has acknowledged that they made an error internally by continuing your coverage under the Essential Plan, accepting your monthly premiums, processing certain medical claims, and pre-authorizing a medical procedure, and has agreed to process your medical claims from April 2017.

## **Decision**

The November 30, 2016 eligibility determination and disenrollment notices are **AFFIRMED**.

By this Decision, there is no finding as to whether you were eligible for the Essential Plan through NYSOH during the months of January 1, 2017 through April 30, 2017, because you did not submit income documents or update your NYSOH account until April 2017.

This decision does not affect any subsequent eligibility determinations made or corresponding notices issued by NYSOH.

**Effective Date of this Decision:** October 10, 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 December 31, 2016, because you did not provide income documentation to confirm your eligibility by the required deadline and did not update your NYSOH account until April 2017.

The Essential Plan has agreed to process your claims for medical procedures, treatment, and care for the month of April 1, 2017. You can contact that plan directly to discuss your claims, if need be.

## **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)).

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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 November 30, 2016 eligibility determination and disenrollment notices are **AFFIRMED**.

By this Decision, there is no finding as to whether you were eligible for the Essential Plan through NYSOH during the months of January 1, 2017 through April 30, 2017, because you did not submit income documents or update your NYSOH account until April 2017.

This decision does not affect any subsequent eligibility determinations made or corresponding notices issued by NYSOH.

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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 December 31, 2016, because you did not provide income documentation to confirm your eligibility by the required deadline and did not update your NYSOH account until April 2017.

The Essential Plan has agreed to process your claims for medical procedures, treatment, and care for the month of April 1, 2017. You can contact that plan directly to discuss your claims, if need be.

## **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。我们可以为您免费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)**

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&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.

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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.