



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

## Notice of Decision

Decision Date: October 18, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019926

[REDACTED]

Dear [REDACTED],

On September 15, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 25, 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 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).

This page intentionally left blank.



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

## Decision

Decision Date: October 18, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019926



## 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 June 30, 2017?

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

## Procedural History

On February 18, 2017, 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 no monthly premium, effective April 1, 2017. The notice directed you to provide documentation confirming your income before May 18, 2017.

Also on February 18, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in an Essential Plan, effective April 1, 2017.

No income documentation was submitted before May 18, 2017.

On May 25, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to receive up to \$123.00 in advance payment of the premium tax credit and eligible for cost-sharing reductions if you enrolled in a silver-level health plan, effective July 1, 2017. The notice also stated you no longer qualify for the Essential Plan as of June 30, 2017, because federal and

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).

state data sources show that your household income is between \$27,821.00 and \$80,640.00.

Also on May 25, 2017, NYSOH issued a disenrollment notice stating that your Essential Plan would end effective June 30, 2017, because you were no longer eligible for that program.

On June 20, 2017, NYSOH issued an eligibility determination notice, based on your June 19, 2017 updated application, stating that you were eligible to enroll in the Essential Plan for a limited time with a monthly premium of \$20.00, effective August 1, 2017. The notice directed you to provide documentation confirming your income before September 17, 2017.

Also on June 20, 2017, NYSOH issued a plan enrollment notice, based on your June 19, 2017 plan selection, confirming your enrollment in an Essential Plan, effective August 1, 2017.

On June 22, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your Essential Plan insofar as your coverage began on August 1, 2017 and not July 1, 2017.

On September 15, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals. 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 electronic mail.
- 2) According to your NYSOH account and testimony, on June 16, 2017, you updated your contact information and requested that NYSOH send notices to you by regular mail.
- 3) You testified that you were notified by a NYSOH representative on or about February 17, 2017, that your eligibility was only conditional and that you needed to provide documentation of your household's income before May 18, 2017. You further testified that you submitted your timesheets to NYSOH via regular mail.
- 4) According to your NYSOH account shows that, although you submitted a letter from your employer on April 4, 2016, no new income documentation

was received by NYSOH to confirm your eligibility for the 2017 insurance year.

- 5) Your NYSOH account indicates that, on May 24, 2017, your eligibility was systematically run after the May 18, 2017 deadline to submit income documentation had passed and you were found no longer eligible for the Essential Plan as of July 1, 2017, and were dis-enrolled from your Essential Plan as of June 30, 2017. The basis for your ineligibility was that you had not provided proof of your household income and that federal and state data sources showed that show your household income was between \$27,821.00 and \$80,640.00.
- 6) You testified that you never received notice that you were being disenrolled from your health plan. You realized you were disenrolled when you were advised by your doctor's office before your [REDACTED]. You further testified that this was because the notices were being sent to an old email account that you stopped using because you only receive junk mail.
- 7) On June 19, 2017, you updated your application for financial assistance and were found conditionally eligible for the Essential Plan as of August 1, 2017. You were directed to provide proof of income before September 17, 2017. As of the date of this decision, no proof of income has been provided.
- 8) You testified that you are seeking enrollment in the Essential Plan to begin as of July 1, 2017 because you had an [REDACTED] that month.

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

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>).

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

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).

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)).

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

## **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 June 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.

You testified that you were advised by a NYSOH representative on or about February 17, 2017, that your eligibility for the Essential Plan was only conditional and that you needed to provide documentation of your household's income before May 18, 2017. Therefore, it is concluded that NYSOH properly notified you of an inconsistency in your account and provided you with 90 days to resolve the inconsistency in your income as of your February 17, 2017 application for health insurance.

You further testified that you sent in proof of income via regular mail. However, a review of your NYSOH account shows that, although you submitted a letter from your employer on April 4, 2016, no new income documentation was received by

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).

NYSOH to confirm your eligibility for the 2017 insurance year. Therefore, the record reflects that NYSOH did not receive any current income documentation before the May 18, 2017 deadline.

Since the requested income documentation was not received within the 90-day period, NYSOH was required to re-determine your eligibility without verification of your income. As such, NYSOH properly determined, based on federal and state data sources, that you were no longer eligible for the Essential Plan but that you could purchase a qualified health plan with advance payments of the premium tax credits applied to it through NYSOH, effective July 1, 2017. This was because you did not provide the current income documentation requested by NYSOH.

You testified that you did not receive the May 25, 2017 disenrollment notice. While you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically, you further testified that NYSOH sent your notices to an email address that you stopped using because you only receive junk mail at that address. Your failure to update your account with a current email address is not a mistake or error attributable to the NYSOH, it's entities or representatives.

Therefore, it is concluded that NYSOH did properly notify you of your disenrollment and the need to update your account.

Therefore, NYSOH's May 25, 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 next effective August 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.

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).



On June 19, 2017, you submitted an updated application, were redetermined eligible for the Essential Plan, and selected an Essential Plan, so your eligibility for and enrollment in the Essential Plan properly took effect on the first day of the second month following June 2017; that is, on August 1, 2017.

Therefore, the June 20, 2017 eligibility determination and plan enrollment notices stating respectively that your eligibility for and enrollment in the Essential Plan were effective August 1, 2017, are correct and must be AFFIRMED.

It is noted that as of the date of the Decision, although you are enrolled in the Essential Plan via Aid to Continue pending the outcome of appeal, your application was conditional and you have still not provided to NYSOH current proof of your income to confirm your eligibility. You can contact NYSOH to update your account with current income information.

## **Decision**

The May 25, 2017 eligibility determination and disenrollment notices are AFFIRMED.

The June 20, 2017 eligibility determination and plan enrollment notices are AFFIRMED.

**Effective Date of this Decision:** October 18, 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 June 30, 2017, because you did not provide current 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 August 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.

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).

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  
Albany, NY 12211

By fax: 1-855-900-5557

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).

## **Summary**

The May 25, 2017 eligibility determination and disenrollment 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 June 30, 2017, because you did not provide current income documentation to confirm your eligibility by the required deadline.

The June 20, 2017 eligibility determination and plan enrollment notices are AFFIRMED.

The next effective date of your eligibility for and enrollment in an Essential Plan is August 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.

## বাংলা (Bengali)

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).

□□□ □□ □□□□□□□□□□ □□□ □□ □□□□ □□□□ □□ □□□□□□□ □□□□□□ □□ □□□□□, □□□□□□ □□ 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 sre wo, fre 1-855-355-5777. ye bεtumi 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)**

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).

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.

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).