



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

## Notice of Decision

Decision Date: November 9, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019944

[REDACTED]

Dear [REDACTED],

On October 25, 2017, your attorney appeared by telephone at a hearing on your appeal of NY State of Health's January 2, 2017 eligibility determination and plan disenrollment notices and March 3, 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: November 9, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019944



## Issues

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

Was your appeal of the January 2, 2017 eligibility determination and January 2, 2017 plan disenrollment notices timely?

Did NY State of Health properly determine that your and your spouse's eligibility for and enrollment in the Essential Plan ended effective January 31, 2017?

Did NY State of Health properly determine that your and your spouse's eligibility for and enrollment in the Essential Plan was next effective April 1, 2017?

## Procedural History

On September 27, 2016, NY State of Health (NYSOH) received your updated application for financial assistance with health insurance. That day a preliminary eligibility determination was prepared stating that you and your spouse were eligible for the Essential Plan with a \$20.00 monthly premium. You and your spouse enrolled into a plan that day.

On September 28, 2016, NYSOH issued a plan enrollment notice stating that you and your spouse were enrolled in an Essential Plan with a \$20.00 monthly premium, effective November 1, 2016.

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On October 7, 2016, NYSOH issued an eligibility determination notice, based on your September 27, 2016 application, stating that you and your spouse were eligible to enroll in the Essential Plan, for a limited time, effective November 1, 2016. The notice further directed you to provide household income documentation for you and your spouse before December 26, 2016.

No income documentation was received by December 26, 2016.

On January 2, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a qualified health plan at full cost. The notice stated that you were not eligible to enroll in the Essential Plan because NYSOH did not receive the income documentation needed to verify the household income listed in your application. This eligibility was effective February 1, 2017.

Also on January 2, 2017, NYSOH issued a plan disenrollment notice stating that your and your spouse's enrollment in your Essential Plans would end on January 31, 2017, because you and your spouse were no longer eligible to remain in your plans.

On March 2, 2017, NYSOH received your updated application for financial assistance with health insurance.

On March 3, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plans with a \$20.00 monthly premium for a limited time, effective April 1, 2017. The notice further directed you to provide household income documentation for you and your spouse before May 31, 2017.

Also on March 3, 2017, NYSOH issue a plan enrollment notice, based on your plan selection on March 2, 2017, confirming your and your spouse's enrollment in an Essential Plan, effective April 1, 2017.

On June 22, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your and your spouse's Essential Plan for the months of February 2017 and March 2017.

On September 15, 2017, you had a scheduled telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that your attorney represent you during the hearing. The Hearing Officer was unable to contact the attorney during the hearing. Therefore, your hearing was rescheduled.

On October 18, 2017, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. Your attorney, [REDACTED], appeared on your behalf. The record was developed during the hearing and held open until October

25, 2017, to allow your attorney to review the evidence packet and enter a verbal statement on the record.

On October 25, 2017, a Hearing Officer from the NYSOH's Appeals Unit attempted to contact your attorney, [REDACTED] at 3:00 p.m., 3:15 p.m., and 3:30 p.m., but was unable to reach your attorney. Therefore, the record was closed that same day and this decision is based on the record as developed at the time of the hearing on October 18, 2017.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) Your attorney testified, and your application indicates, that you receive all your notices from NYSOH via regular mail.
- 2) Your attorney testified that you did not receive any notices stating that your and your spouse's eligibility was only for a limited time and that you needed to provide documentation of your household's income.
- 3) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 4) Your attorney testified that you did not know that you needed to submit documentation of your income until you realized that you and your spouse were disenrolled from coverage in March 2017.
- 5) Your attorney testified that you did not attempt to submit income documentation in the months of October 2016, November 2016 or December 2016.
- 6) Your NYSOH account indicates that on January 1, 2017 your application was run and you and your spouse were found no longer eligible for the Essential Plan as of January 31, 2017.
- 7) Your NYSOH account indicates that you updated your NYSOH account on March 2, 2017 and you and your spouse were found eligible for the Essential Plan, effective April 1, 2017.
- 8) Your attorney testified that you are seeking to have your and your spouse's enrollment in your Essential Plans start as of February 1, 2017, because you have unpaid medical bills from February 2017.

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)).

### 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

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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 in order 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 in order 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 redetermine 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)).

## **Legal Analysis**

The first issue under review is whether your appeal of NYSOH's January 2, 2017 eligibility determination and plan disenrollment notices was timely.

The record reflects that you first contacted NYSOH to file a formal appeal regarding your and your spouse's ineligibility for and disenrollment from your Essential Plans, effective January 31, 2017, on June 22, 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 and your spouse's ineligibility for and disenrollment from your Essential Plans, effective January 31, 2017, an appeal should have been filed by March 3, 2017. The record reflects that you filed your appeal on June 22, 2017 which is beyond the 60-day deadline.

Although your appeal was untimely on its face, the record indicates that you contacted NYSOH on March 2, 2017 and created an incident regarding your and

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your spouse's lack of coverage for February 2017, which was within the 60-day time frame to appeal. However, the incident never indicated that you were offered an appeal. The record also indicates that you were in contact with NYSOH several times after the March 2, 2017 incident and when you filed an appeal on June 22, 2017.

As you originally contacted NYSOH within sixty (60) days of the January 2, 2017 eligibility determination and plan disenrollment notices regarding your and your spouse's lack of coverage for February 2017, your failure to timely submit was through no fault of your own and as such, should not preclude your appeal as untimely. Therefore, the merits of your appeal will be considered.

The second issue under review is whether NYSOH properly determined that you and your spouse's eligibility for and enrollment in the Essential Plan ended effective January 31, 2017.

Individuals requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to their household's projected annual income. For individuals seeking enrollment in the Essential Plan, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, it must provide the individuals 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 October 7, 2016, you were advised that you and your spouse were eligible for the Essential Plan was only for a limited time, and that you needed to confirm your and your spouse's household's income before December 26, 2016.

Your attorney testified that you did not receive any notice from NYSOH telling you that you needed to provide income documentation to confirm your and your spouse's eligibility. Your attorney testified, and your NYSOH account confirms, that 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, it is concluded that NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation.

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Accordingly, your and your spouse's eligibility for the Essential Plan terminated as of January 31, 2017, because you did not submit documentation and did not adequately demonstrate that you could not provide documentation to confirm your income.

Therefore, the January 2, 2017 eligibility determination and plan disenrollment notices are AFFIRMED.

The third issue under review is whether NYSOH properly determined that your and your spouse's eligibility for and enrollment in the Essential Plan was effective April 1, 2017.

The record indicates that you updated your NYSOH application on March 2, 2017. That day you selected an Essential Plan for your and your spouse's enrollment.

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.

Since on March 2, 2017, you selected an Essential Plan for enrollment, your and your spouse's enrollment would properly take effect on the first day of the month following March 2017; that is, on April 1, 2017.

Therefore, the March 3, 2017 eligibility determination and plan enrollment notices stating that your and your spouse's eligibility for and enrollment in the Essential Plan was effective April 1, 2017, is correct and must be AFFIRMED.

## **Decision**

The January 2, 2017 eligibility determination notice is AFFIRMED.

The January 2, 2017 plan disenrollment notice is AFFIRMED.

The March 3, 2017 eligibility determination notice is AFFIRMED.

The March 3, 2017 plan enrollment notice is AFFIRMED.

**Effective Date of this Decision:** November 9, 2017

## **How this Decision Affects Your Eligibility**

NYSOH properly found you and your spouse not eligible to enroll in the Essential Plan, effective as of January 31, 2017, because you did not provide documentation of your and your spouse's household's income.

NYSOH properly found that your and your spouse's re-enrollment in the Essential Plan was effective April 1, 2017.

You and your spouse did not have health insurance coverage through NYSOH during the months of February 2017 and March 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 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

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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 January 2, 2017 eligibility determination notice is AFFIRMED.

The January 2, 2017 plan disenrollment notice is AFFIRMED.

NYSOH properly found you and your spouse not eligible to enroll in the Essential Plan, effective as of January 31, 2017, because you did not provide documentation of your and your spouse's household's income.

The March 3, 2017 eligibility determination notice is AFFIRMED.

The March 3, 2017 plan enrollment notice is AFFIRMED.

NYSOH properly found that your and your spouse's re-enrollment in the Essential Plan was effective April 1, 2017.

You and your spouse did not have health insurance coverage through NYSOH during the months of February 2017 and March 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.

### **বাংলা (Bengali)**

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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 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 b&tumi 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.

## **שׂוֹדֵשׁ (Yiddish)**

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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.

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