



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

Notice of Decision

Decision Date: November 6, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020171

[REDACTED]

Dear [REDACTED],

On September 29, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 6, 2017 disenrollment notice and June 27, 2017 eligibility determination 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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Decision Date: November 6, 2017

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 (NYSOH) properly determine that you and your spouse's enrollment in your Essential Plan ended effective June 30, 2017?

Did NY State of Health (NYSOH) properly determine that you and your spouse's enrollment in a qualified health plan and the application of advance payments of the premium tax credit were effective no earlier than August 1, 2017?

Procedural History

On March 2, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan with a \$20.00 monthly premium each, for a limited time, effective April 1, 2017. The notice also stated that you and your spouse no longer qualified for APTC as of March 31, 2017. The notice stated that you needed to submit proof of household income by May 30, 2017.

Also on March 2, 2017, NYSOH issued a plan enrollment notice confirming you and your spouse were enrolled in Essential Plan 1 with a \$20.00 monthly premium each, effective April 1, 2017.

On June 6, 2017, based on a system update, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive up to \$336.00 per month in advance payments of the premium tax credits (APTC).

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 eligibility was effective July 1, 2017. The notice also stated that you and your spouse no longer qualified for the Essential Plan as of June 30, 2017.

Also on June 6, 2017, NYSOH issued a plan enrollment notice stating in part that you and your spouse needed to pick a health plan and that your health coverage in a qualified health plan would not begin until you picked a plan.

Also on June 6, 2017, NYSOH issued a disenrollment notice stating that you and your spouse's coverage in Essential Plan 1 would end on June 30, 2017.

On June 9, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan with a \$20.00 monthly premium each, for a limited time, effective July 1, 2017. The notice also stated that you and your spouse no longer qualified for APTC as of June 30, 2017. The notice stated that you needed to submit proof of household income by September 6, 2017. The notice stated that you needed to select a health plan and that you would be provided written confirmation from NYSOH once you selected a plan.

On June 27, 2017, NYSOH issued an eligibility determination notice, based on your updated June 26, 2017 application, stating that you and your spouse were eligible to receive up to \$355.00 per month in APTC, effective August 1, 2017. The notice also stated that you and your spouse no longer qualified for the Essential Plan as of June 30, 2017.

Also on June 27, 2017, NYSOH issued a plan enrollment notice confirming your and your spouse's June 26, 2017 selection of a silver-level qualified health plan with a monthly premium responsibility of \$475.08, after your APTC of \$355.00 was applied, both effective August 1, 2017.

On July 1, 2017, NYSOH issued an eligibility determination notice, based on your updated June 30, 2017 application, stating that you and your spouse were eligible to receive up to \$477.00 per month in APTC. This eligibility was effective August 1, 2017.

Also on July 1, 2017, NYSOH issued a notice confirming you and your spouse's June 30, 2017 selection of a silver-level qualified health plan with a monthly premium responsibility of \$397.92, after your APTC of \$477.00 was applied, both effective August 1, 2017.

Also on July 1, 2017, NYSOH issued a notice confirming that on June 30, 2017 you spoke to NYSOH's Account Review Unit and appealed the June 6, 2017 eligibility determination and disenrollment notices insofar as they ended your Essential Plan on June 30, 2017 and not July 31, 2017.

On September 29, 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 your testimony, you receive all of your notices from NYSOH via regular mail.
- 2) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 3) You testified that you are appealing only you and your spouse's eligibility for health insurance.
- 4) You and your spouse were conditionally enrolled in an Essential Plan with an April 1, 2017 plan start date. You were directed to submit proof of household income by May 30, 2017 in order to verify your eligibility.
- 5) No income documentation was submitted prior to the May 30, 2017 deadline.
- 6) On June 5, 2017, NYSOH redetermined your household eligibility based on information received from state and federal data sources. Based on that updated information, you and your spouse were determined eligible for \$336.00 per month in APTC and no longer eligible for the Essential Plan, effective July 1, 2017
- 7) According to your NYSOH account, you and your spouse were disenrolled from your Essential Plan, with a coverage end date of June 30, 2017.
- 8) On June 8, 2017, you submitted an updated application for application to NYSOH for financial assistance for your household. Based on that application you were determined conditionally eligible for the Essential Plan and no longer eligible for APTC, effective July 1, 2017.
- 9) According to your NYSOH account, you did not select an Essential Plan for you and your spouse following the June 9, 2017 eligibility determination.
- 10) According to your NYSOH account, you submitted an updated application on June 26, 2017 and you and your spouse were redetermined eligible for \$355.00 per month in APTC, effective August 1, 2017.

- 11) According to your NYSOH account and your testimony, on June 26, 2017, you selected a silver-level qualified health plan for you and your spouse with a plan start date and APTC application, effective August 1, 2017.
- 12) You testified that you received the June 9, 2017 notice that informed you that you needed to pick an Essential Plan.
- 13) You testified that you were not made aware of the need to pick a plan by the 15th of the month to have the start date effective at the beginning of the next month.
- 14) You testified that you need your Essential Plan end date to be extended to July 31, 2017, because you had [REDACTED] in July 2017, which are not covered by health insurance.
- 15) You testified that you did not want an earlier start date of your silver-level qualified health plan because of the deductible that would be applied.

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

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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)).

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of advance payments of the premium tax credit (APTC) for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the

month following the date of the notice (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

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. 18, as approved January 2017; see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>).

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)).

Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health 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)). 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 you and your spouse's enrollment in an Essential Plan ended 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 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 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 March 2, 2017, you were advised that you and your spouse were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income before May 30, 2017.

According to your NYSOH account and your testimony, you receive notifications by regular mail. 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 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. As no documentation was received by the May 30, 2017 deadline, NYSOH redetermined your household's eligibility on June 5, 2017 based on information received from state and federal data sources. Based on that updated system application, you and your spouse were determined eligible to receive \$336.00 in monthly APTC and were no longer eligible for the Essential Plan, effective July 1, 2017.

Accordingly, you and your spouse's eligibility for the Essential Plan terminated as of June 30, 2017, because you did not submit documentation and did not adequately demonstrate that you could not provide documentation to confirm your income.

Therefore, the June 6, 2017 eligibility determination notice is AFFIRMED.

Changes made in your eligibility prior to the 15th of the month are effective at the start of the next following month. Therefore, NYSOH's June 6, 2017 disenrollment notice that states you and your spouse's Essential Plan coverage was terminated effective June 30, 2017 is AFFIRMED.

The record reflects that you updated your account on June 8, 2017, you and your spouse were determined eligible for the Essential Plan for a limited time, effective July 1, 2017. The June 9, 2017, eligibility determination notice that was issued, stated that you needed to select a health plan and that you would receive written confirmation from NYSOH once you have selected a plan. The record reflects and you testified that you did not select an Essential Plan for you and your husband after the June 9, 2017 eligibility determination notice.

Essential Plan start dates are based on the date a plan is selected. Without the selection of a new Essential Plan following the disenrollment of June 30, 2017, there cannot be a new start date.

The second issue under review is whether NYSOH properly determine that you and your spouse's enrollment in a silver-level qualified health plan, as well as the application of APTC, was effective no earlier than August 1, 2017.

The record shows that on June 26, 2017 you updated the information in your NYSOH account and submitted a request to enroll in a qualified health plan. On June 27, 2017, NYSOH issued a plan enrollment notice stating that you and your spouse's enrollment in your silver-level qualified health plan was effective August 1, 2017, and that APTC would be applied to your monthly premium effective August 1, 2017.

When an individual changes information in their application after the 15th of any month, NYSOH will make the redetermination that results from the change effective the first day of the second following month. Additionally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is after the fifteenth day of a month goes into effect on the first day of the second following month.

Since you selected you and your spouse's silver-level qualified health plan on June 26, 2017, it properly took effect the first day of the second month following June 2017; that is, on August 1, 2017.

Therefore, NYSOH's June 27, 2017 eligibility determination notice and enrollment confirmation notices are **AFFIRMED** because they properly began you and your spouse's enrollment in your silver-level qualified health plan as well as your advance premium tax credits on August 1, 2017.

Decision

The June 6, 2017 eligibility determination notice is **AFFIRMED**.

The June 6, 2017 disenrollment notice that states you and your spouse's Essential Plan coverage was terminated effective June 30, 2017 is **AFFIRMED**.

The June 27, 2017 eligibility determination notice and enrollment confirmation notices are **AFFIRMED**.

Effective Date of this Decision: November 6, 2017

How this Decision Affects Your Eligibility

This decision does not change your and your spouse's eligibility.

You and your spouse's Essential Plan coverage terminated as of June 30, 2017.

You and your spouse's enrollment in your silver-level qualified health plan, and application of your monthly APTC properly began as of 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.

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 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 Have Questions about this Decision (Customer Service Resources):

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NY State of Health Appeals
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The June 6, 2017 eligibility determination notice is AFFIRMED.

The June 6, 2017 disenrollment notice that states you and your spouse's Essential Plan coverage was terminated effective June 30, 2017 is AFFIRMED.

The June 27, 2017 eligibility determination notice and enrollment confirmation notices are AFFIRMED.

This decision does not change your and your spouse's eligibility.

You and your spouse's Essential Plan coverage terminated as of June 30, 2017.

You and your spouse's enrollment in your silver-level qualified health plan, and application of your monthly APTC properly began as of 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)

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।

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).

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&btumi 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)

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).