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: AP000000020567

[redacted]

[redacted]

Dear [redacted],

On October 10, 2017, your authorized representative, [redacted], appeared by telephone at a hearing on your appeal of NY State of Health's March 27, 2017 disenrollment; May 17, 2017 plan enrollment; and July 12, 2017 eligibility determination 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.

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).

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

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NY State of Health Account ID: [redacted]
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[redacted]

[redacted]

Issues

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

> Did NY State of Health (NYSOH) properly end your and your child's Essential Plan coverage effective April 30, 2017?
>
> Did NYSOH properly determine that you and your child were next enrolled in an Essential Plan with an enrollment start date of July 1, 2017?
>
> Did NYSOH properly determine that you were ineligible for Medicaid coverage for the month of May 2017?

Procedural History

On December 20, 2016, you submitted an application for financial assistance through NYSOH.

On December 21, 2016, NYSOH issued an eligibility determination notice stating that you and your child were eligible to enroll in the Essential Plan for a limited time, effective February 1, 2017. The notice directed you to submit additional income documentation to confirm your eligibility by March 20, 2017.

On December 21, 2016, NYSOH issued a plan enrollment notice confirming that, as of December 20, 2016, you and your child were enrolled in an Essential Plan with an enrollment start date of February 1, 2017. The notice directed you to submit additional income documentation to confirm your eligibility by March 20, 2017.

On March 26, 2017, your NYSOH account was systemically updated.

On March 27, 2017, NYSOH issued an eligibility determination notice stating that you and your child were eligible for a tax credit up to $598.00 per month, effective as of May 1, 2017. The notice also stated that you and your child were no longer qualified for the Essential Plan as of April 30, 2017.

Also on March 27, 2017, NYSOH issued a disenrollment notice stating that your and your child's Essential Plan coverage would end April 30, 2017, because you were no longer eligible to remain enrolled in the Essential Plan.

On May 16, 2017, your NYSOH account was updated.

On May 17, 2017, NYSOH issued an eligibility determination notice stating that you and your child were eligible to enroll in the Essential Plan for a limited time, effective July 1, 2017. The notice directed you to submit additional income documentation to confirm your eligibility by August 14, 2017.

Also on May 17, 2017, NYSOH issued an enrollment notice confirming that, as of May 16, 2017, you and your child were enrolled in an Essential Plan with an enrollment start date of July 1, 2017. The notice directed you to submit additional income documentation to confirm your eligibility by August 14, 2017.

On May 22, 2017, additional documentation was uploaded to your account (*see* Documents [redacted]).

On May 23, 2017, NYSOH issued a notice stating that the documentation reviewed did not confirm the information in your application. The notice directed you to submit additional income documentation by August 14, 2017.

On June 10, 2017, your account was updated.

Also on June 10, 2017, additional documentation was uploaded to your account (*see* Documents [redacted]).

On June 11, 2017, NYSOH issued an eligibility determination notice stating that you and your child were eligible to enroll in the Essential Plan for a limited time, effective July 1, 2017. The notice directed you to submit additional income documentation to confirm your eligibility by September 8, 2017.

Also on June 11, 2017, NYSOH issued a plan enrollment notice confirming that, as of June 10, 2017, you and your child were enrolled in an Essential Plan with an enrollment start date of July 1, 2017. The notice directed you to submit additional income documentation to confirm your eligibility by September 8, 2017.

On June 13, 2017, NYSOH issued a notice stating that the documentation reviewed did not confirm the information in your application. The notice directed you to submit additional income documentation by September 8, 2017.

On July 11, 2017, your account was updated.

On July 12, 2017, NYSOH issued an eligibility determination notice stating that you were ineligible for Medicaid for the period of May 1, 2017, through May 31, 2017.

On July 17, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as not being enrolled in health insurance coverage for the month of May 2017.

On October 10, 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, you are applying for yourself and your [redacted].

2) According to your NYSOH account, you and your child were enrolled in an Essential Plan, effective February 1, 2017.

3) According to your NYSOH account, you receive notices from NYSOH by U.S. mail.

4) According to your NYSOH account, the December 21, 2016, notices issued by NYSOH were not returned as undeliverable.

5) According to your NYSOH account, no income documentation was sent to NYSOH by March 20, 2017.

6) According to your NYSOH account, you and your child were reenrolled in an Essential Plan on May 16, 2017.

7) Your authorized representative testified that you incurred medical expense in the month of May 2017, and want to be enrolled in health insurance to cover those expenses.

8) According to your NYSOH account, you expect to file a 2017 federal income tax return with the tax status of Head of Household (with qualifying individual), and expect to claim your child as a dependent on that return.

9) According to your July 11, 2017 application, you were requesting help paying for medical bills for the last three months.

10) According to your July 11, 2017 application, you attested to receiving $2,102.00 monthly from [redacted] and $5,178.00 yearly from [redacted], [redacted].

11) You submitted a paystub from [redacted]. You were issued gross income of $2,102.46 on May 31, 2017 (*see* Document [redacted]).

12) According to your NYSOH account, you did not expect to claim any deductions on your 2017 federal income tax return.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

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).

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow the NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i)). If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f); 42 CFR §600.345 (a)) See also New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; *see* https://www.medicaid.gov/basic-health-program/basic-health-program.html).

NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence (45 CFR §155.315(f)(2). If NYSOH remains unable to verify the information required to determine the applicant's eligibility after the 90 day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

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 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)).

Medicaid:

Medicaid can be provided through the Marketplace to adults who: (1) are age 19 or older and under age 65; (2) are not pregnant; (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act; (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part; and (5) have a household modified adjusted gross income that is at or below 138% of the federal poverty for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2017 FPL, which is $16,240.00 for a two-person household (82 Federal Register 8831).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

Medicaid Retroactive Coverage:

NYSOH must make Medicaid eligibility effective no later than the third month before the month of application if the individual received medical services that would have been covered under Medicaid and would have been eligible for Medicaid at the time he received the services if they had applied (42 CFR 435.915(a)). NYSOH may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR 435.915(b)).

Legal Analysis

The first issue under review is whether NYSOH properly ended your and your child's Essential Plan coverage effective April 30, 2017.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to their household's projected annual income. 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 a period of 90 days from the date the notice is sent to resolve the inconsistency.

NYSOH issued notices on December 21, 2016, stating that you and your child were eligible to enroll in the Essential Plan for a limited time. You were instructed to provide income documentation by March 20, 2017, in order to confirm your and your child's eligibility to enroll in the Essential Plan. No documentation was received by the March 20, 2017 deadline.

The record reflects that you elected to receive notifications by regular mail. There is no evidence in the record that the December 21, 2016, notices that were sent to your mailing address were returned as undeliverable. Therefore, NYSOH

properly notified you of the inconsistency in your account, and that you needed to provide the documentation by March 20, 2017.

Since the income documentation was not received by NYSOH within 90 days of the issuance of the December 21, 2016 notices, your and your child's Essential Plan coverage properly ended effective April 30, 2017.

Therefore, the March 27, 2017 disenrollment notice is AFFIRMED.

The second issue under review is whether NYSOH properly determined that you and your child were enrolled in an Essential Plan with an enrollment start date of July 1, 2017.

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.

The record reflects that you and your child were re-enrolled in an Essential Plan on May 16, 2017. Since the Essential Plan was selected on May 16, 2017, it properly took effect on the first day of the second month following May 16, 2017; that is on, July 1, 2017.

Therefore, the May 17, 2017 plan enrollment notice confirming that you and your child were enrolled in an Essential Plan with an enrollment start date of July 1, 2017 is AFFIRMED.

The third issue under review is whether NYSOH properly determined that you were ineligible for Medicaid coverage for the month of May 2017.

The record reflects that you expect to file your 2017 federal income tax return, with the tax status of Head of Household (with qualifying individual), and expect to claim one dependent on that return. Therefore, you are in a two-person household.

The record supports that it was indicated in your July 11, 2017 application that you were seeking help paying for medical bills for the month of May 2017.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's application if they would have been eligible for Medicaid in those three months had they applied.

Medicaid can be provided through the NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified

adjusted gross income that is at or below 138% of the FPL for the applicable family size.

On the date of your application, the FPL was $16,240.00 for a two-person household. Financial eligibility for Medicaid applicants who are not currently receiving Medicaid benefits may be based on current monthly household income and family size. For an adult to be eligible for Medicaid in a household of two, their monthly must not exceed $1,868.00.

The record reflects that you attested to receiving $2,102.00 monthly from [redacted] and $5,178.00 yearly from [redacted]. Further, you submitted a paystub from [redacted] stating that you were issued gross income of $2,102.46 on May 31, 2017 (*see* Document [redacted]). Therefore, your May 2017 household was $2,533.46 (($5,178.00 / 12 months) + $2,102.46).

Your household income exceeded the income threshold for you to be eligible for Medicaid in May 2017. Therefore, the July 12, 2017 eligibility determination notice stating that you were ineligible for Medicaid from May 1, 2017, through May 31, 2017, is AFFIRMED.

Decision

The March 27, 2017 disenrollment notice is AFFIRMED.

The May 17, 2017 plan enrollment notice is AFFIRMED.

July 12, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: October 18, 2017

How this Decision Affects Your Eligibility

Your and your child's Essential Plan coverage properly ended effective April 30, 2017.

You and your child were properly re-enrolled in an Essential Plan effective July 1, 2017.

You were ineligible for Medicaid coverage from May 1, 2017, through May 31, 2017, as your household income that month exceeded the maximum allowable monthly income to be eligible for Medicaid retroactively.

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 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

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).

- By mail at:

  NY State of Health Appeals
  P.O. Box 11729
  Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The March 27, 2017 disenrollment notice is AFFIRMED.

The May 17, 2017 plan enrollment notice is AFFIRMED.

July 12, 2017 eligibility determination notice is AFFIRMED.

Your and your child's Essential Plan coverage properly ended effective April 30, 2017.

You and your child were properly re-enrolled in an Essential Plan effective July 1, 2017.

You were ineligible for Medicaid coverage from May 1, 2017, through May 31, 2017, as your household income that month exceeded the maximum allowable monthly income to be eligible for Medicaid retroactively.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[redacted]

[redacted]

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).

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.

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).

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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ 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 کرم1-855-355-5777 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.

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).

(Yiddish) אידיש

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).