



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

Notice of Decision

Decision Date: October 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020725

[REDACTED]

Dear [REDACTED],

On October 4, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 16, 2017 plan disenrollment notice, the July 22, 2017 eligibility determination notice, the July 22, 2017 plan enrollment notice, the August 18, 2017 plan disenrollment notice, and the August 18, 2017 discontinuance 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 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.

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: October 17, 2017

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

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 terminated effective March 31, 2017?

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

Did NYSOH properly determine that your eligibility for and enrollment in the Essential Plan terminated effective September 1, 2017?

Procedural History

On December 10, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective January 1, 2017. The notice further directed you to provide documentation confirming your income before March 9, 2017.

On January 4, 2017, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective February 1, 2017.

No income documentation was uploaded to your NYSOH account by March 9, 2017.

On March 16, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost. The notice

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stated that you were not eligible to enroll in the Essential Plan because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective April 1, 2017.

Also on March 16, 2017, NYSOH issued a disenrollment notice stating that your enrollment in the Essential Plan would end as of March 31, 2017, because you were no longer eligible to remain in your plan.

On July 21, 2017, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible to enroll in the Essential Plan and you selected a plan for enrollment, effective September 1, 2017.

Also on July 21, 2017, you spoke to NYSOH's Account Review Unit and requested that your Essential Plan coverage start as of July 1, 2017, and not September 1, 2017.

On July 22, 2017, NYSOH issued a notice of eligibility determination, based on your July 21, 2017 application, stating that you were eligible to enroll in the Essential Plan, effective September 1, 2017.

Also on July 22, 2017, NYSOH issue a notice of enrollment confirmation, based on your plan selection on July 21, 2017, stating that you were enrolled in an Essential Plan effective September 1, 2017.

On August 4, 2017, the July 22, 2017 notices were returned to NYSOH as undeliverable. These notices were uploaded to your NYSOH account on August 14, 2017.

On August 15, 2017, NYSOH issued a discontinuance notice stating that you were no longer eligible for health insurance through NYSOH, effective September 2, 2017, because notices regarding your eligibility coverage sent to you by NYSOH were returned to the Marketplace as undeliverable. This notice also stated that you needed to update your mailing address so that you could remain eligible for health coverage through NYSOH.

Also on August 15, 2017, NYSOH issued a plan disenrollment notice confirming that your Essential Plan coverage would end as of September 1, 2017.

On August 16, 2017, NYSOH received your updated application for financial assistance with health insurance. That day, a preliminary eligibility determination was prepared stating that you were eligible to enroll in the Essential Plan and you selected a plan for enrollment, effective October 1, 2017.

Also on August 16, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan for the month of September

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2017. The NYSOH's Account Review Unit amended your active appeal from July 21, 2017 to include this issue.

On October 4, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed the end of the hearing.

Findings of Fact

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

- 1) You testified, and your application indicates, that you receive all of your notices from NYSOH via regular mail.
- 2) You testified that you did receive the notice stating that your eligibility was only conditional and that you needed to provide documentation of your household's income.
- 3) You testified that you were unable to send income documentation at the time due to a computer issue.
- 4) Your NYSOH account indicates that on March 15, 2017 your application was run and you were found no longer eligible for the Essential Plan as of March 31, 2017.
- 5) You testified that you discovered you were disenrolled from your Essential Plan in May 2017, and that you were not able to reapply until July 2017 because you were busy.
- 6) The record reflects that you submitted an updated application for financial assistance on July 21, 2017, and that you enrolled into an Essential Plan that day, effective September 1, 2017.
- 7) The record indicates that you were disenrolled from your Essential Plan, effective September 1, 2017.
- 8) According to your NYSOH account, the July 22, 2017 eligibility determination, plan enrollment, and appeal notices were returned to NYSOH as undeliverable on August 4, 2017. These notices were uploaded to your NYSOH account on August 14, 2017 and August 15, 2017.
- 9) The record reflects that all notices sent to you on July 22, 2017 were addressed to: [REDACTED]

- 10) You testified that this address was correct, and still is the correct address for you.
- 11) You testified that you spoke with the United States Postal Service (USPS) about the returned mail from NYSOH, but they were unable to give you an explanation as to why they were returned as undeliverable.
- 12) You testified that you have gotten notices from NYSOH at your address in the past.
- 13) You testified that you are seeking enrollment in your Essential Plan as of July 1, 2017 and that you would like your enrollment to continue into September 2017, with no gaps in coverage moving forward.

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 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)).

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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 NYSOH properly determined that your eligibility for and enrollment in the Essential Plan ended effective March 31, 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 December 10, 2016, you were advised that you were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income before March 9, 2017.

You testified that you did receive notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. You further testified

that you were unable to submit income documentation at that time due to computer problems.

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.

Accordingly, your eligibility for the Essential Plan terminated as of March 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 March 16, 2017 plan disenrollment notice is AFFIRMED.

The second issue is whether NYSOH properly determined that your eligibility for and enrollment in the Essential Plan was effective September 1, 2017.

The record indicates that you updated your NYSOH application on July 21, 2017. That day you selected an Essential Plan for 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 July 21, 2017, you selected an Essential Plan, your enrollment would properly take effect on the first day of the second month following July 2017; that is, on September 1, 2017.

Therefore, the July 22, 2017 eligibility determination notice, and the July 22, 2017 plan enrollment notice stating that your eligibility for and enrollment in the Essential Plan was effective September 1, 2017, is correct and must be AFFIRMED.

The third issue is whether NYSOH properly determined that your enrollment in the Essential Plan terminated effective September 1, 2017.

For an applicant to remain eligible for enrollment in an Essential Plan through NYSOH, they must meet both the financial and non-financial requirements. One

of the non-financial requirements is that the applicant must be a New York State resident.

According to your NYSOH account, on July 22, 2017, NYSOH issued an eligibility determination, a plan enrollment notice, and an appeal notice that was returned as undeliverable on August 4, 2017. This returned notice were uploaded to your account on August 14, 2017 and August 15, 2017.

As a result, you were subsequently disenrolled from you Essential Plan because NYOSH received mail addressed to you that was undeliverable; therefore, the system assumed that you no longer met the state residency requirement for enrollment in an Essential Plan. As such, on August 15, 2017, NYSOH issued a discontinuance notice and a plan disenrollment notice, stating that you were no longer eligible to enroll in a health insurance through NYSOH and your coverage would end effective September 1, 2017.

However, a review of the record, along with your testimony, reflects that these were the only notices that were returned to NYSOH as undeliverable despite several other notices being sent to the exact same address. You testified that you have not moved since applying for health insurance through NYSOH in December 2016.

Based on the credible evidence of the record, it is reasonable to conclude that the notices that were returned as undeliverable were through no fault of your own, and quite possibly the result of an error of the United States Postal Service. As a result, it is reasonable to conclude that the disenrollment from your Essential Plan was in error.

Therefore, the August 15, 2017 discontinuance notice and August 15, 2017 plan disenrollment notice must be RESCINDED.

Your case is RETURNED to NYSOH to reinstate you in your Essential Plan, effective September 1, 2017, and to notify you accordingly.

Decision

The March 16, 2017 plan disenrollment notice is AFFIRMED.

The July 22, 2017 eligibility determination notice is AFFIRMED.

The July 22, 2017 plan disenrollment notice is AFFIRMED.

The August 15, 2017 discontinuance notice is RESCINDED.

The August 15, 2017 plan disenrollment notice is RESCINDED.

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).

Your case is RETURNED to NYSOH to reinstate you in your Essential Plan, effective September 1, 2017, and to notify you accordingly.

Effective Date of this Decision: October 17, 2017

How this Decision Affects Your Eligibility

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

NYSOH properly found that your reenrollment in the Essential Plan was effective September 1, 2017.

Your case is being sent back to reenroll you in your Essential Plan, effective September 1, 2017.

NYSOH will notify you once this change has been completed.

It is your responsibility to pay the monthly premium directly to your Essential Plan in order for coverage to start as of September 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:

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 calling the Customer Service Center at 1-800-318-2596
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The March 16, 2017 plan disenrollment notice is **AFFIRMED**.

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

The July 22, 2017 eligibility determination notice is **AFFIRMED**.

The July 22, 2017 plan disenrollment notice is **AFFIRMED**.

NYSOH properly found that your reenrollment in the Essential Plan was effective September 1, 2017.

The August 15, 2017 discontinuance notice is **RESCINDED**.

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).

The August 15, 2017 plan disenrollment notice is RESCINDED.

Your case is being sent back to reenroll you in your Essential Plan, effective September 1, 2017.

NYSOH will notify you once this change has been completed.

It is your responsibility to pay the monthly premium directly to your Essential Plan in order for coverage to start as of September 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:

- [REDACTED]

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।

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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&etumi 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.

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