



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

Notice of Decision

Decision Date: August 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021174

[REDACTED]

Dear [REDACTED],

On August 15, 2017, you appeared by telephone at an expedited hearing on your appeal of NY State of Health's August 1, 2017 eligibility determination and enrollment confirmation notices.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the Account ID at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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DEPARTMENT OF HEALTH
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Decision

Decision Date: August 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021174

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that your eligibility for, and enrollment in, your Essential Plan coverage would be effective September 1, 2017?

Procedural History

On July 12, 2016, NYSOH received your updated application for financial assistance with health insurance.

On July 13, 2016, NYSOH issued an eligibility determination notice, based on your July 12, 2016 application, stating that you were eligible to enroll in the Essential Plan, effective August 1, 2016.

Also on July 13, 2016, NYSOH issued an enrollment confirmation notice, confirming your selection of an Essential Plan, with an enrollment start date of August 1, 2016.

On June 3, 2017, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not determine whether you would qualify for financial help paying for your health coverage, and that you needed to update your account between June 16 and July 15, 2017, or you might lose the financial assistance you were currently receiving.

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No updates were received by July 15, 2017, and NYSOH redetermined your eligibility for financial assistance with health insurance on July 16, 2017.

On July 17, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost through NYSOH, effective August 1, 2017. The notice stated that you were not eligible for financial assistance because you did not respond to the renewal notice.

Also on July 17, 2017, NYSOH issued a disenrollment notice stating that your enrollment in your Essential Plan was terminated, effective July 31, 2017.

On July 31, 2017, you updated your application for financial assistance with health insurance through NYSOH.

On August 1, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan, effective September 1, 2017.

Also on August 1, 2017, NYSOH issued an enrollment notice confirming your selection of your Essential Plan, with a plan enrollment start date of September 1, 2017.

On August 4, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential Plan insofar as it did not begin on August 1, 2017. You requested that your appeal request be expedited.

Also on August 4, 2017, documentation was faxed to NYSOH in support of your request for an expedited appeal.

On August 8, 2017, your request for an expedited appeal was granted.

On August 15, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, after you were placed under oath, you waived the right to receive fifteen days' written notice of your hearing date.

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) You were determined eligible for the Essential Plan on July 12, 2016, with an effective date of August 1, 2016.
- 2) You testified that you receive your notices from NYSOH by regular mail.

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- 3) You testified that you did not receive any notices in the mail telling you that you needed to update your application to renew your Essential Plan eligibility by July 15, 2017.
- 4) No notices sent to you at the mailing address listed on your NYSOH account have been returned as undeliverable.
- 5) You testified that you had a “social worker” named “[REDACTED],” from Fidelis, who always assisted you with your renewals and everything related to your NYSOH applications and account.
- 6) You testified that you went to this individual on [REDACTED] or so because you wanted to change to a new health plan, and you thought you needed to do so by the fifteenth of the month for it to go into effect the following month.
- 7) You testified that you wanted to change to Empire Blue Cross/Blue Shield.
- 8) You testified that the “social worker” told you it was too early, and that you needed to come back after the 15th of the month.
- 9) Your NYSOH account reflects that, on June 14, 2017, “[REDACTED]” accessed your NYSOH account and deleted your enrollment in one plan, and added your enrollment to another plan.
- 10) On June 15, 2017, NYSOH issued a notice stating that your enrollment in a Blue Cross/Blue Shield Essential Plan would begin on July 1, 2017.
- 11) You testified that you called the social worker on the 15th of June, or maybe a day later, and he went over all of your information with you, including your income information, and that he renewed your coverage.
- 12) Your NYSOH account does not reflect any application updates/application renewal in June 2017. The only action initiated in your account in June 2017 was the changing of your Essential Plan to Empire Blue Cross/Blue Shield.
- 13) You testified that you did not receive any insurance cards or information regarding your coverage, so you called Empire Blue Cross/Blue Shield.
- 14) You testified that you received an automated message telling you that you needed to update your account by July 31, 2017, which you did not understand because you had just switched to Empire Blue Cross/Blue Shield, effective July 1, 2017.

- 15) You testified that you tried to reach your social worker, but could not, and that his extension no longer went to anyone.
- 16) You testified that, a couple of days later, a new “social worker” called from Empire Blue Cross/Blue Shield and told you that your coverage was ending as of July 31, 2017.
- 17) You testified, and the record confirms, that she updated your NYSOH application.
- 18) You testified that, when you found out that your coverage was not going to begin until September 1, 2017, this new “social worker,” (listed on your account as [REDACTED], an application counselor from Empire Blue Cross/Blue Shield) helped you to file an appeal.
- 19) You testified that you have [REDACTED] and cannot put off your treatments for the month of August 2017, as your doctor has advised you that this is not possible.
- 20) You testified that this was [REDACTED]” fault, not yours, as he was the one who did everything for you on your account, and you would never have ignored any letter telling you to renew your coverage if you had received it.
- 21) You testified that it is your understanding that your application was updated either too soon or too late by “[REDACTED],” and that this is what caused your coverage to end.

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

Applicable Law and Regulations

Essential Plan Renewal

In general, NYSOH will review Essential Plan eligibility no more frequently than once every 12 months from the effective date of eligibility as long as enrollees are under age 65, not enrolled in minimum essential coverage, remain state residents, and do not have any changes in circumstances. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12 month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or changes in circumstances (42 CFR § 600.340(a); 42 CFR §

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600.320(d); NY Social Services Law § 369-gg(3) and (4)(d)); New York's Basic Health Plan Blueprint, pp. 8 and 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (42 CFR § 600.340(e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (42 CFR §600.345; (NY Social Services Law § 369-gg(4)(c); 45 CFR § 155.335(g); 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>).

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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your eligibility for, and enrollment in, your Essential Plan would be effective September 1, 2017.

You were originally found eligible for the Essential Plan effective August 1, 2016.

Generally, NYSOH will redetermine a qualified individual's eligibility for the Essential Plan once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's June 3, 2017 renewal notice stated that there was not enough information to determine whether you were eligible to continue your financial

assistance for health insurance, and that you needed to supply additional information by July 15, 2017, or your financial assistance might end.

Because there was no timely response to this notice, you were terminated from your Essential Plan, effective July 31, 2017.

You testified that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account. You 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, the record reflects that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated to ensure your enrollment in your health plan and eligibility for financial assistance would continue.

You testified that your understanding is that your social worker, "[REDACTED]," updated your application in June 2017, but that he did it either too soon or too late, and this is what caused your eligibility to end.

However, the record shows that your application was not renewed at all in June 2017. Though you may have had a telephone conversation with "[REDACTED]" in June 2017 in which he verified information with you, there is no record of any application updates in June 2017 in your NYSOH account. The only action initiated by "[REDACTED]" in June 2017 was the changing of your enrollment from Fidelis to Empire Blue Cross/Blue Shield on June 14, 2017. There is no evidence that he attempted to update your application for health insurance or renew your eligibility.

Additionally, though you testified that you were relying on your "[REDACTED]" to take care of everything relating to your NYSOH account, you were sent a notice informing you that you needed to renew your application by July 15, 2017, or your coverage could end. Since there is no indication that this notice was returned to NYSOH as undeliverable, you are considered to have received timely and proper notice that you needed to renew your application by July 15, 2017 to prevent a gap in your coverage.

The record shows that on July 31, 2017, you updated the information in your NYSOH account and submitted a request to enroll in an Essential Plan.

The date on which the 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

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selected after the fifteenth day of a month goes into effect on the first day of the second following month.

Since you selected your Essential Plan on July 31, 2017, it must take effect on the first day of the second month following July; that is, on September 1, 2017.

Therefore, NYSOH's August 1, 2017 eligibility determination notice and enrollment confirmation notice are **AFFIRMED** because they properly begin your eligibility for, and enrollment in, the Essential Plan on September 1, 2017.

Decision

The August 1, 2017 eligibility determination notice is **AFFIRMED**.

The August 1, 2017 enrollment confirmation notice is **AFFIRMED**.

Effective Date of this Decision: August 17, 2017

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

The effective date of your Essential Plan is 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)).

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If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

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

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

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

You can contact us in any of the following ways:

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

Summary

The August 1, 2017 eligibility determination notice is AFFIRMED.

The August 1, 2017 enrollment confirmation notice is AFFIRMED.

This decision does not change your eligibility.

The effective date of your Essential Plan is September 1, 2017.

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Legal Authority

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

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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 مجاناً.

বাংলা (Bengali)

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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 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 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.

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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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