



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

Notice of Decision

Decision Date: November 8, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021264

[REDACTED]

[REDACTED]

On November 1, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 22, 2017 eligibility determination notice, the April 22, 2017 disenrollment notice, the August 9, 2017 eligibility determination notice and the August 9, 2017 enrollment confirmation 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.

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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 your and your spouse's eligibility for the Essential Plan ended effective May 31, 2017?

Did NYSOH properly determine that your and your spouse's eligibility for and reenrollment in the Essential Plan was effective September 1, 2017?

Procedural History

On January 16, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective February 1, 2017. The notice directed you to provide documentation confirming your household income before April 15, 2017 in order to confirm your and your spouse's eligibility for financial assistance.

Also on January 16, 2017, NYSOH issued a notice confirming your and your spouse's enrollment in an Essential Plan, effective February 1, 2017.

On March 22, 2017, NYSOH redetermined your household's eligibility for financial assistance.

On March 23, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective May 1, 2017. The notice directed you to provide documentation

confirming your household income before April 15, 2017 in order to confirm your and your spouse's eligibility for financial assistance.

Also on March 23, 2017, NYSOH issued a notice confirming your and your spouse's enrollment in an Essential Plan, effective February 1, 2017.

On April 22, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a qualified health plan at full cost. The notice stated that you and your spouse 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 June 1, 2017.

Also on April 22, 2017, NYSOH issued a disenrollment notice stating that your and your spouse's enrollment in the Essential Plan would end as of May 31, 2017, because you and your spouse were no longer eligible to remain in your plan.

On August 8, 2017, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you and your spouse were eligible to enroll in the Essential Plan and you selected a plan for enrollment for yourself and your spouse.

Also on August 8, 2017 you spoke to NYSOH's Account Review Unit and appealed the termination of your and your spouse's Essential Plan for the months of June 2017, July 2017, and August 2017.

On August 9, 2017, NYSOH issued a notice of eligibility determination, based on your August 8, 2017 application, stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective September 1, 2017. This notice directed you to submit proof of your household's income before November 6, 2017 in order to confirm your and your spouse's eligibility for financial assistance.

Also on August 9, 2017, NYSOH issued a notice of enrollment confirmation, based on your plan selection on August 8, 2017, stating that you and your spouse were enrolled in an Essential Plan effective September 1, 2017.

On October 17, 2017, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date.

On November 1, 2017, you had an adjourned telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the hearing. The record was developed during the hearing and closed at the end of the hearing.

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Findings of Fact

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

- 1) You testified, and your NYSOH account indicates, that you receive all of your notices from NYSOH via regular mail.
- 2) You testified that you did not receive any notices stating that you and your spouse's eligibility was limited and that you needed to provide documentation of your household's income.
- 3) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 4) Your NYSOH account indicates that on April 21, 2017 your application was run and you and your spouse were found no longer eligible for the Essential Plan as of May 31, 2017.
- 5) You testified that you did not know that you and your spouse had been disenrolled from your coverage until your spouse went to a doctor's appointment and was told that her coverage was not active.
- 6) You testified that sometime in June 2017 you contacted NYSOH regarding your and your spouse's disenrollment from the Essential Plan, however, it was not until August 2017 that you reenrolled yourself and your spouse in coverage.
- 7) During the hearing, you gave permission for the Hearing Officer to listen to recordings of phone calls you had with NYSOH.
- 8) The record reflects that following the issuance of the April 22, 2017 eligibility determination notice and April 22, 2017 disenrollment notice the first time you contacted NYSOH was on August 8, 2017.
- 9) The record reflects that on August 8, 2017 you placed a call to NYSOH. A review of the recording of that phone call reveals that you began the call by advising the NYSOH representative that you had tried to use your Essential Plan coverage and you were told that your coverage had been terminated a few months ago. During that call, you updated your household's application for financial assistance and reenrolled yourself and your spouse into an Essential Plan.
- 10) You testified that you are seeking for yourself and your spouse to be reinstated into your Essential Plan as of June 1, 2017.

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/downloads/ny-blueprint.pdf>; 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)).

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)).

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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 you and your spouse's eligibility for the Essential Plan ended effective May 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 determinations issued on January 16, 2017 and March 23, 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 April 15, 2017.

You testified that you did not receive any notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. 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, 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 and your spouse's eligibility for the Essential Plan terminated as of May 31, 2017 because you did not submit documentation and did not

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adequately demonstrate that you could not provide documentation to confirm your income.

Therefore, the April 22, 2017 eligibility determination notice and April 22, 2017 disenrollment notice are AFFIRMED.

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

Although you testified that you first contacted NYSOH to address your and your spouse's disenrollment from your Essential Plan in June 2017, the credible evidence in the record indicates that you first contacted NYSOH on August 8, 2017 and that you updated your NYSOH application that day. Also on August 8, 2017 you selected an Essential Plan for yourself and your spouse for reenrollment.

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 you selected an Essential Plan for yourself and your spouse on August 8, 2017, your and your spouse's enrollment would properly take effect on the first day of the first month following August 8, 2017; that is, on September 1, 2017.

Therefore, the August 9, 2017 eligibility determination notice and the August 9, 2017 enrollment confirmation notice stating that your and your spouse's reenrollment in the Essential Plan was effective September 1, 2017, is correct and must be AFFIRMED.

Decision

The April 22, 2017 notice of eligibility determination is AFFIRMED.

The April 22, 2017 disenrollment notice is AFFIRMED.

The August 9, 2017 notice of eligibility determination is AFFIRMED.

The August 9, 2017 notice of enrollment confirmation is AFFIRMED.

Effective Date of this Decision: November 8, 2017

How this Decision Affects Your Eligibility

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

NYSOH properly found that your and your spouse's reenrollment in the Essential Plan was effective 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:

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

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available

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to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

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

You can contact us in any of the following ways:

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

Summary

The April 22, 2017 notice of eligibility determination is AFFIRMED.

The April 22, 2017 disenrollment notice is AFFIRMED.

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

The August 9, 2017 notice of eligibility determination is AFFIRMED.

The August 9, 2017 notice of enrollment confirmation is AFFIRMED.

NYSOH properly found that you and your spouse's reenrollment in the Essential Plan was effective 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:



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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 okyer& 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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