

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

Notice of Decision

Decision Date: November 29, 2017

NY State of Health Account ID: Appeal Identification Number: AP000000021374



On October 18, 2017, you and your spouse appeared by telephone on your appeal of NY State of Health's May 31, 2017 disenrollment notice and the August 1, 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 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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STATE OF NEW YORK DEPARTMENT OF HEALTH P.O. Box 11729 Albany, NY 12211

Decision

Decision Date: November 29, 2017

NY State of Health Account ID: Appeal Identification Number: AP000000021374

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 were disenrolled from your Essential Plan, effective June 30, 2017?

Did NYSOH properly determine that coverage through the Essential Plan you and your spouse reenrolled in was effective no earlier than September 1, 2017?

Procedural History

On February 23, 2017, NYSOH received an updated application for financial assistance with health insurance submitted on behalf of you and your spouse.

On February 24, 2017, NYSOH issued an eligibility determination notice stating you and your spouse were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, for a limited time, effective April 1, 2017. The notice directed you to submit proof of your household income by May 24, 2017 to confirm your eligibility, or you and your spouse might lose your insurance or receive less help paying for your coverage. The notice included a "Documentation List" providing the types of documents accepted to prove various kinds of income. The list indicated that to prove wages an applicant must submit the last four weeks of paystubs or a letter signed by the employer. The list indicated that to prove self-employment income the applicant must submit records of detailed earnings and expenses for the last three months, business payrolls and records for the last

three months, or a signed and dated filed tax return for the previous year if representative of attested income.

Also on February 24, 2017, NYSOH issued an enrollment notice confirming you and your spouse were enrolled in an Essential Plan, effective April 1, 2017.

On March 4, 2017, NYSOH issued a notice stating the documentation received was insufficient to confirm the income information in your application. The notice directed you to submit additional documentation of your household income by May 24, 2017 or you might lose your insurance or receive less help paying for your coverage. The notices also included a "Documentation List."

On May 30, 2017, NYSOH systematically redetermined eligibility for you and your spouse.

On May 31, 2017, NYSOH issued an eligibility determination notice stating you and your spouse were eligible to purchase a qualified health plan at full cost, effective July 1, 2017. The notice indicated you and your spouse were not eligible to receive financial assistance because you failed to submit sufficient documentation to verify the income information in your application by the deadline.

Also on May 31, 2017, NYSOH issued a disenrollment notice stating that coverage through the Essential Plan you and your spouse enrolled in would end on June 30, 2017, because you were no longer eligible to enroll in that plan.

On June 5, 2017, NYSOH received an updated application for financial assistance with health insurance submitted on behalf of you and your spouse.

On June 6, 2017, NYSOH issued a notice stating the income information in your application did not match the information received from state and federal data sources. The notice directed you to submit proof of your household income by June 20, 2017 or NYSOH would not be able to determine the eligibility of you and your spouse for health coverage. The notice included a "Documentation List."

On June 10, 2017 and June 23, 2017, NYSOH issued notices stating the documentation received was insufficient to confirm the income information in your application. The notices directed you to submit additional documentation of your household income. The notices also included a "Documentation List."

On July 24, 2017, NYSOH systematically redetermined the eligibility of you and your spouse.

On July 25, 2017, NYSOH issued a notice stating you and your spouse were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective September 1, 2017.

On August 1, 2017, NYSOH issued an enrollment notice, based on your July 31, 2017 plan selection, confirming you and your spouse were enrolled in an Essential Plan, effective September 1, 2017.

On August 11, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as the Essential Plan you and your spouse enrolled in was not effective earlier than September 1, 2017.

On October 18, 2017, you and your spouse 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) You testified this appeal only involves coverage for you and your spouse.
- 2) NYSOH received an updated application submitted on behalf of you and your spouse on February 23, 2017. That application listed your annual household income as \$32,480.00 consisting of \$ 27,040.00 your spouse earned from her employment and \$ 5,440.00 you would earn in self-employment income, which included a \$1,760.00 deduction for "Expenses."
- 3) According to your account, NYSOH was unable to verify the income information listed in your February 23, 2017 application.
- 4) You and your spouse were determined conditionally eligible for the Essential Plan pending receipt of documentation by May 24, 2017 confirming your household income.
- 5) You and your spouse enrolled in an Essential Plan, effective April 1, 2017.
- 6) On February 23, 2017, NYSOH received a copy of a schedule E from your 2016 joint tax return. According to your account, NYSOH invalidated this documentation on March 3, 2017, because it did not comply with the documentation request.
- 7) On March 4, 2017, NYSOH issued a notice requesting additional income documentation by May 24, 2017.

- 8) You testified that you received the March 4, 2017 notice and that you went back to the certified application counselor (CAC) who was helping you with your application, you gave the CAC all your tax documents and new paystubs for your spouse, and the CAC indicated that she would resubmit all the documentation.
- 9) There is no record of NYSOH receiving any additional income documentation by May 24, 2017.
- 10) On May 30, 2017, NYSOH redetermined the eligibility of you and your spouse and found that you were ineligible to receive financial assistance, because you failed to submit sufficient proof of your income by the deadline.
- 11) You and your spouse were disenrolled from your Essential Plan, effective June 30, 2017.
- 13) According to your account, NYSOH was unable to verify the income information listed in your June 5, 2017 application. Following that application, you were required to submit sufficient proof of your household income before NYSOH could determine the eligibility of you and your spouse.
- 14) On June 6, 2017, NYSOH received a signed and dated copy of a form 2014 from your 2016 joint tax return as proof of your self-employment income. This document was invalidated by NYSOH, because no proof of your spouse's income was received at that time.
- 15) NYSOH issued a notice on June 10, 2017 indicating your income documentation was insufficient and requesting additional documentation.
- 16) On June 21, 2017, NYSOH received three copies of the same May 18, 2017 weekly paystub for your spouse. According to your account, this documentation was invalidated, because it did not comply with the documentation request.

- 17) NYSOH issued a notice on June 23, 2017 indicating your income documentation was insufficient and requesting additional documentation.
- 18) You testified that you received the June 10, 2017 deficiency notice, but you may not have received the June 23, 2017 notice.
- 19) You testified, and your account confirms, you receive your communication from NYSOH by regular mail.
- 20) You confirmed the mailing address listed on the June 23, 2017 notice was your correct mailing address and there is no record of that notice being returned to NYSOH as undeliverable.
- 21) You testified that you knew there was an issue with your income documentation, because you received the numerous notices issued by NYSOH requesting additional documentation. You testified that you repeatedly contacted your CAC and brought her updated documentation on several occasions and you assumed she would properly submit that documentation to NYSOH.
- 22) According to your account, NYSOH received updated paystubs for your spouse on July 24, 2017. This documentation was verified by NYSOH the same day and your spouse's income was increased to \$30,818.32 based on the average weekly gross income listed in the paystubs.
- 23) NYSOH systematically redetermined the eligibility of you and your spouse on July 24, 2017 based on the recalculated household income and determined you and your spouse fully eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective September 1, 2017.
- According to your account, a new Essential Plan enrollment was submitted on behalf of you and your spouse on July 31, 2017.
 Coverage through that plan became effective on September 1, 2017.
- 25) You testified you are appealing the June 30, 2017 disenrollment of you and your spouse from your Essential Plan and the September 1, 2017 effective date of your subsequent reenrollment.
- 26) Your account confirms you and your spouse had a gap in coverage for the months of July and August 2017.

27) You testified that the coverage for you and your spouse should be backdated, because you submitted income documentation to your CAC and she was responsible for not uploading it timely or correctly.

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 noncitizen 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* 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 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 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)).

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR § 155.320(c)(1)(i), 42 CFR § 435.945).

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 § 435.952).

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 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)(i)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your spouse were disenrolled from your Essential Plan, effective June 30, 2017.

On February 23, 2017, NYSOH received an updated application for financial assistance with health insurance submitted on behalf of you and your spouse. That application listed your annual household income as \$32,480.00 consisting of \$27,040.00 your spouse earned from her employment and \$5,440.00 you would earn in self-employment income. According to your account, NYSOH was unable to verify the income information listed in that application.

Pursuant to the regulations, for all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income. If NYSOH cannot verify the income information required to determine eligibility it must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

The eligibility determination notice issued on February 24, 2017 indicated that the eligibility of you and your spouse to enroll in the Essential Plan was only conditional and directed you to submit proof of your household income by May 24, 2017 or you might lose your insurance or receive less help paying for your coverage. Furthermore, that notice included a "Documentation List" providing the types of documents accepted to prove various kinds of income. The list indicated that to prove wages an applicant must submit the last four weeks of paystubs or a letter signed by the employer. The list indicated that to prove self-employment income the applicant must submit records of detailed earnings and expenses for the last three months, business payrolls and records for the last three months, or a signed and dated filed tax return for the previous year if representative of attested income.

Although your account confirms that in February 2017 NYSOH received a copy of a schedule E from your 2016 joint tax return as proof of your self-employment income, this document was properly invalidated by NYSOH because it failed to comply with the document request. NYSOH issued a notice on March 4, 2017, advising you that the documentation received was insufficient and requesting additional income documentation by May 24, 2017.

You testified that you received the March 4, 2017 notice and in response you provided updated tax documents and full paystubs for your spouse to your CAC; however, this does not constitute receipt of sufficient documentation by NYSOH and your account confirms that no additional income documentation was received by NYSOH by the May 24, 2017 deadline.

Since the record establishes that NYSOH was without sufficient information to confirm the attestations in your February 24, 2017 application, the resulting May 31, 2017 disenrollment notice stating that the enrollment of you and your spouse in your Essential Plan would end on June 30, 2017, because you were no longer eligible to enroll in that plan, was correct and is AFFIRMED.

The second issue under review is whether NYSOH properly determined that coverage through the Essential Plan you and your spouse reenrolled in was effective no earlier than September 1, 2017.

On June 5, 2017, NYSOH received an updated application submitted on behalf of you and your spouse. That application reduced your attested annual household income to \$27,572.00. According to your account, NYSOH was

unable to verify the income information in your application and because the application reduced your income to a Medicaid eligibility level, you were required to provide sufficient documentation confirming your income before NYSOH could determine the eligibility of you and your spouse.

Although your account confirms that you submitted valid proof of your selfemployment income on June 6, 2017 in the form of a signed and dated form 1040 from your 2016 tax return, you failed to submit sufficient documentation of your spouse's income until July 24, 2017. While you testified that you submitted valid income documentation to your CAC and she failed to properly and timely upload that documentation to NYSOH, as discussed above, such does not constitute receipt of sufficient documentation by NYSOH. Furthermore, your contention that your duty to accurately report your household income and/ or to provide sufficient documentation to verify your attested income amount is alleviated by opting to use a CAC to submit said documentation is, likewise, not convincing. By all accounts, the CAC was acting on your behalf with your permission. Thus, any failure to properly and timely submit income documentation in this case is ultimately your responsibility, especially in light of the numerous notices of deficiency issued by NYSOH to the mailing address listed on your account.

Your account confirms that NYSOH did not receive sufficient documentation of your household's income until July 24, 2017. That same day NYSOH, redetermined the eligibility of you and your spouse and found you to be fully eligible to enroll in the Essential Plan. According to your account, a new Essential Plan enrollment was submitted on behalf of you and your spouse on July 31, 2017 with coverage effective on September 1, 2017. You appealed insofar as that coverage was not effective earlier.

Pursuant to the regulations, the date an Essential Plan becomes effective depends on the date on which it is selected. A plan that is selected from the first day to the fifteenth day of any month will be effective on the first day of the following month. However, plans selected from the sixteenth to the last day of any month, will not be effective until the first day of the second following month.

The evidence establishes you and your spouse selected an Essential Plan on July 31, 2017. As discussed above there is insufficient evidence to support your contention that you should have been permitted to select a health plan prior to that date. Since the plan was selected after the fifteenth day of the month, that plan properly became effective on the first day of the second following month; that is, on September 1, 2017.

Therefore, the August 1, 2017 enrollment confirmation notice stating the enrollment of you and your spouse in your Essential Plan became effective September 1, 2017 is correct and is AFFIRMED.

Decision

The May 31, 2017 disenrollment notice is AFFIRMED.

The August 1, 2017 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: November 29, 2017

How this Decision Affects Your Eligibility

This decision does not change the enrollment dates for you or your spouse.

The initial Essential Plan enrollment for you and your spouse ended on June 30, 2017.

You and your spouse were not eligible to enroll in health coverage through NYSOH in the months of July and August 2017

The subsequent enrollment of you and your spouse in the Essential Plan became effective on 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 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 May 31, 2017 disenrollment notice is AFFIRMED.

The August 1, 2017 enrollment confirmation notice is AFFIRMED.

This decision does not change the enrollment dates for you or your spouse.

The initial Essential Plan enrollment for you and your spouse ended on June 30, 2017.

You and your spouse were not eligible to enroll in health coverage through NYSOH in the months of July and August 2017

The subsequent enrollment of you and your spouse in the Essential Plan became effective on 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:



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.

<u>中文 (Simplified Chinese)</u>

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.

<u> 한국어 (Korean)</u>

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.

(Arabic)العربية

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 5777-355-1855. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

<u>বাংলা (Bengali)</u>

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.

<u>हिंदी (Hindi)</u>

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。

<u>नेपाली (Nepali)</u>

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.

<u>Twi (Twi)</u>

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.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم5777-355-1855 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.