



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

Notice of Decision

Decision Date: August 25, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021494

[REDACTED]

Dear [REDACTED],

On August 25, 2017, you appeared by telephone at an expedited hearing on your appeal of NY State of Health's August 17, 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.

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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: August 25, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021494



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 coverage through your Essential Plan was effective no earlier than September 1, 2017?

Procedural History

On July 13, 2017, NYSOH received your updated application for financial assistance with health insurance.

On July 14, 2017, NYSOH issued a notice stating that 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 July 28, 2017 or NYSOH would not be able to determine your eligibility for health coverage. The notice included a "Documentation List" indicating acceptable forms of documentation to prove different types of income. The list indicated that to prove wages an applicant must submit paystubs for the last four weeks or a letter from the employer(s).

Also on July 14, 2017, NYSOH issued a notice of disenrollment stating your Medicaid Managed Care plan coverage would end on July 31, 2017, because you were no longer eligible to enroll in the plan.

On August 5, 2017 and again on August 10, 2017, NYSOH issued notices indicating the documentation received was insufficient to confirm the income information in your application. The notices directed you to submit additional

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documentation of your household income by August 27, 2017. The notices also included a "Documentation List."

On August 16, 2017, NYSOH issued an eligibility determination notice, based on an August 15, 2017 systematic eligibility redetermination, stating you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective September 1, 2017.

Also on August 16, 2017, you contacted NYSOH to enroll into an Essential Plan and you were advised the coverage through that plan would not begin until September 1, 2017.

Additionally, on August 16, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you were not covered by your Essential Plan in August 2017.

On August 17, 2017, NYSOH issued an enrollment notice, based on your August 16, 2017 plan selection, confirming you were enrolled in an Essential Plan, effective September 1, 2017.

On August 25, 2017, you had an expedited 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 and your spouse were determined eligible for Medicaid, effective August 1, 2016. You subsequently enrolled in a Medicaid Managed Care plan.
- 2) NYSOH issued a renewal notice on June 3, 2017, directing you to update your account by July 15, 2017 to renew your coverage for the upcoming coverage year.
- 3) You testified, and your account confirms, you receive your communication from NYSOH by regular mail.
- 4) You testified that you received the June 3, 2017 renewal notice.
- 5) On July 13, 2017, an updated application was submitted on behalf of you and your spouse. That application indicated that you had no anticipated income for 2017. That application also indicated your

spouse's annual income for 2017 was \$20,540.00, consisting of \$395.00 he earned weekly from his employment.

- 6) According to your account, NYSOH was unable to verify the income information listed in your application and you were directed to submit documentation to verify your attested household income amount.
- 7) The notice issued by NYSOH on July 14, 2017 requesting income documentation included a "Documentation List" which indicated that to prove wages an applicant must submit paystubs for the last four weeks or a letter from the employer(s).
- 8) You testified you do not recall whether you received the July 14, 2017 eligibility determination notice. You further testified that you have a medical condition that affects your memory. You confirmed the mailing address listed on the July 14, 2017 eligibility determination notice was your correct mailing address.
- 9) You testified that you are not sure when you learned that you had to submit documentation of your household income, but that you periodically log into your account and you think you recall reading the July 14, 2017 eligibility determination notice online. You did not recall the date that you read that notice.
- 10) On August 3, 2017, a single weekly paystub for your spouse was uploaded to your account. According to your account, this document was invalidated because it did not comply with the document request.
- 11) On August 9, 2017, three paystubs were uploaded. Only two of the paystubs were legible. According to your account, this document was invalidated because it did not comply with the document request.
- 12) On August 15, 2017, a signed letter indicating that you had no income as well as the following four weekly paystubs for your spouse were uploaded to your account:
 - a. August 11, 2017 in the gross amount of \$584.00 with a year-to-date amount of \$19,834.00.
 - b. July 28, 2017 in the gross amount of \$504.00 with a year-to-date amount of \$18,544.00.
 - c. July 21, 2017 in the gross amount of \$564.00.
 - d. July 14, 2017 in the gross amount of \$692.00.

- 13) You testified that on [REDACTED] you were hospitalized with [REDACTED] and you remained in the hospital until August 15, 2017. You testified that you were hospitalized again from [REDACTED] to [REDACTED]. You testified that due to your hospitalization, you were not able to get the full income documentation requested to NYSOH until August 15, 2017.
- 14) According to your account, NYSOH verified the income documentation submitted on August 15, 2017, the same day, and recalculated your annual household income based on that documentation. NYSOH determined your annual household income to be \$30,654.00.
- 15) You testified that your household income will probably be less than the amount calculated by NYSOH, because your spouse has used up all his paid time off due to [REDACTED] and he will have to take additional time off in the future due to [REDACTED].
- 16) You testified that you called NYSOH the morning of August 15, 2017, after you uploaded the income documentation to verify that it was received. You testified that the representative advised you that it had not been reviewed yet.
- 17) According to your account, on August 15, 2017, NYSOH systematically redetermined the eligibility of you and your spouse, based on the recalculated household income, and found you to be eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective September 1, 2017. The eligibility determination notice advising you of your eligibility was issued the following day, August 16, 2017.
- 18) According to your account, on August 16, 2017 you selected a plan for enrollment and coverage through that plan became effective on September 1, 2017.
- 19) Your account confirms you had a gap in coverage for the month of August 2017.
- 20) You appealed the effective date of your Essential Plan enrollment insofar as you were not covered in August 2017.
- 21) You testified that you have significant medical bills from August 2017 that you cannot afford to pay.

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)).

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

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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)).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see also 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The issue under review is whether NYSOH properly determined that coverage through your Essential Plan was effective no earlier than September 1, 2017.

According to your account, you and your spouse were determined eligible for Medicaid, effective August 1, 2016, and you subsequently enrolled in a Medicaid Managed Care plan. NYSOH issued a renewal notice on June 3, 2017, directing you to update your account by July 15, 2017 to renew your coverage for the upcoming coverage year. You testified you received this notice and your account confirms that an updated application was submitted on behalf of you and your spouse on July 13, 2017. That application indicated that you had no anticipated income for 2017. That application also indicated your spouse's annual income for 2017 was \$20,540.00, consisting of \$395.00 he earned weekly from his employment.

According to your account, NYSOH was unable to verify the income information listed in your application and you and your spouse were disenrolled from your Medicaid Managed Care plan, effective July 31, 2017. You were given an opportunity to provide documentary evidence of your household income.

Pursuant to the above cited regulations, for all individuals whose household income is needed to determine their eligibility for health insurance, NYSOH

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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. 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. 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.

In the eligibility determination notice issued by NYSOH on July 14, 2017, you were notified of an inconsistency in your application and you were directed to submit income documentation to confirm your attested income amount. That notice included a "Documentation List" which indicated that to prove wages an applicant must submit paystubs for the last four weeks or a letter from the employer(s). The deadline for documentation provided in that notice was July 28, 2017. Your account confirms that no income documentation was received by that deadline.

Although you testified that you do not recall receiving the July 14, 2017 eligibility determination notice, you further testified that you have a medical condition that [REDACTED], which is relevant to your reliability on this point. You also testified, and your account confirms, that you receive notices from NYSOH by regular mail and you confirmed the mailing address listed on the July 14, 2017 eligibility determination notice was your correct mailing address. There is no indication that any notices issued to you by NYSOH were returned as undeliverable. Accordingly, it is concluded that NYSOH provided you with adequate notice of an inconsistency in your application and that you needed to submit documentation to verify your income before NYSOH could determine your eligibility for health coverage.

Although paystubs for your spouse were uploaded to your account on August 5, 2017 and on August 9, 2017, this documentation did not comply with the document request that you submit four weeks of paystubs or an employment letter. Your account confirms that NYSOH did not receive sufficient income documentation until August 15, 2017.

Your income documentation was verified the same day, August 15, 2017, and NYSOH recalculated your annual household income as \$30,654.00 based on that documentation. You and your spouse were determined eligible for the Essential Plan, effective September 1, 2017.

It is noted that you testified that your household income will probably be less than the amount calculated by NYSOH, because your spouse has used up all his paid time off due to [REDACTED] and he will have to take additional time off in the

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future due to [REDACTED]. However, the evidence establishes that NYSOH recalculated your household income based on the documentation you provided. If your household income has changed since that time and you have documentation evidencing a decrease in your household income, you are encouraged to contact NYSOH to update your information accordingly.

According 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.

However, although your account indicates that you did not select an Essential Plan for enrollment until August 16, 2017, after the fifteenth day of the month, NYSOH made that plan effective September 1, 2017, instead of October 1, 2017.

Therefore, the August 17, 2017 enrollment confirmation notice stating that the enrollment of you and your spouse in your Essential Plan became effective no earlier than September 1, 2017 is correct and is AFFIRMED.

It is noted that the gap in coverage for the month of August 2017 appears due to the underreporting of your household income in the July 14, 2017 application. This is apparent based on the paystubs submitted evidencing your spouse's actual income. Had that application contained accurate and verifiable income information, your enrollment in the Essential Plan could have become effective as early as August 1, 2017. However, due to the inaccuracy of the information in that application, NYSOH required income documentation to verify your actual household income.

It is further noted that, pursuant to the regulations, in order for your Essential Plan enrollment to have been effective August 1, 2017, your income documentation would have had to been submitted and verified by July 15, 2017. Although you testified that your [REDACTED] hospitalization prevented you from timely submitting your income documentation, this occurred subsequent to [REDACTED] and, therefore, would not have affected your ability to enroll for August 2017.

Decision

The August 17, 2017 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: August 25, 2017

How this Decision Affects Your Eligibility

This decision does not change the eligibility of you or your spouse.

The enrollment of you and your spouse in the Essential Plan became effective on September 1, 2017.

You and your spouse did not have health coverage through NYSOH in August 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.

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

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- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The August 17, 2017 enrollment confirmation notice is **AFFIRMED**.

This decision does not change the eligibility of you or your spouse.

The enrollment of you and your spouse in the Essential Plan became effective on September 1, 2017.

You and your spouse did not have health coverage through NYSOH in August 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

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).

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 مجانًا.

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 bɛtumi ama wo obi a okyerɛ 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 איר געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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