



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

## Notice of Decision

Decision Date: November 24, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021582

[REDACTED]

Dear [REDACTED],

On October 23, 2017, your authorized representative, [REDACTED] appeared by telephone at a hearing on your appeal of NY State of Health's March 25, 2017 eligibility determination notice and the March 26, 2017 disenrollment notice.

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

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

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

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

### Legal Authority

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

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

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## Decision

Decision Date: November 24, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021582



## 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 adult child's eligibility for the Essential Plan ended effective May 1, 2017?

## Procedural History

On December 20, 2016, NYSOH issued an eligibility determination notice stating in part that your adult child ("child") was eligible to enroll in the Essential Plan for a limited time, effective February 1, 2017. The notice directed you to provide documentation confirming your child's income before March 19, 2017.

Also on December 20, 2016, NYSOH issued a plan enrollment notice confirming in part your child's enrollment in an Essential Plan, effective February 1, 2017.

On March 25, 2017, NYSOH issued an eligibility determination notice stating in part, that your child was newly eligible to purchase a qualified health plan at full cost. The notice stated that she was not eligible to enroll in the Essential Plan because NYSOH did not receive the income documentation needed to verify her income listed in the December 19, 2017 application. This eligibility was effective May 1, 2017.

On March 26, 2017, NYSOH issued a disenrollment notice stating that your child's enrollment in her Essential Plan would end as of April 30, 2017, because she was no longer eligible to remain in her plan.

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On June 7, 2017, you updated your family's application for financial assistance and your child's income was listed as \$20,050.00.

On June 8, 2017, NYSOH issued an eligibility determination notice stating in part that your child was eligible to enroll in the Essential Plan, effective July 1, 2017.

On June 9, 2017, NYSOH issue a plan enrollment notice, based on your plan selection on June 8, 2017, confirming that your child was enrolled in an Essential Plan effective July 1, 2017.

On August 17, 2017, your child, who you designated as your authorized representative, spoke to NYSOH's Account Review Unit and appealed the termination of her Essential Plan for the months of May 2017 and June 2017.

On October 23, 2017, your authorized representative 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) According to your NYSOH account and your authorized representative's testimony, you receive your notices from NYSOH via regular mail.
- 2) Your authorized representative testified that, on December 19, 2017, the NYSOH customer service representative did not inform you that you need to submit proof of income documentation.
- 3) Your authorized representative testified that you did not receive any notices stating that her eligibility was only conditional and that you needed to provide documentation of her income.
- 4) Your authorized representative testified that you did not receive any notice that her insurance coverage was ending effective April 30, 2017.
- 5) Your authorized representative testified that she did not know her coverage ended until she went to the pharmacy on [REDACTED], to fill a prescription and was told that her coverage had ended.
- 6) According to your NYSOH account, on March 24, 2017, your child's eligibility was redetermined and she was found no longer eligible for the Essential Plan as of May 1, 2017.

- 7) According to your NYSOH account, on June 7, 2017 your account was updated and your child was determined eligible for the Essential Plan effective July 1, 2017.
- 8) According to your NYSOH account, you or your child selected a health plan and she was re-enrolled in the Essential Plan effective July 1, 2017.
- 9) According to your authorized representative, she was ill in June 2017 and had doctor office visits and prescription costs during that month.
- 10) According to your NYSOH account, there are no documents that are available for review in your account other than those shown in your "Inbox".
- 11) According to your NYSOH account, there is a system defect that reflects there are no documents visible in the "Documents Tab" in your account [REDACTED]
- 12) During the hearing, your authorized representative gave the Hearing Officer permission to review the documents in the Inbox within your NYSOH account.
- 13) Your authorized representative testified that she is seeking to be re-enrolled in her Essential Plan as of May 1, 2017 so she will have coverage in the months of May 2017 and June 2017 when she incurred various medical bills that are presently uncovered by insurance.

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

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§ 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 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 issue under review is whether NYSOH properly determined that your child's eligibility for the Essential Plan ended effective May 1, 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

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must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on December 20, 2017, you were advised that your child was eligible for the Essential Plan for a limited time and that you needed to confirm her income before March 19, 2017.

Your authorized representative credibly testified that you did not receive any notice from NYSOH telling you that you needed to provide her income documentation to confirm her eligibility. Your authorized representative testified that, on December 19, 2016, the NYSOH customer service representative did not inform you that you needed to submit proof of income documentation to confirm her eligibility. Your authorized representative testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, due to the system defect, there is no way to confirm that documents were in fact sent by NYSOH to the mailing address listed in your account or that they were returned as undeliverable.

Therefore, there is no evidence in your account documenting that a notice was sent via regular mail regarding the December 20, 2016 eligibility determination notice, which would have advised you that your child's eligibility was only conditional and that you needed to submit documentation of her income. As such, based on the evidence in the record as developed, it cannot be inferred that NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account for your child.

Therefore, it is reasonable to conclude that absent documentary proof of proper notice, the evidence in the record is that NYSOH did not give you the proper notice that you needed to submit documentation of your child's income in order to confirm her eligibility for the Essential Plan.

Your child's eligibility was redetermined on June 7, 2017, and she was found eligible for the Essential Plan without condition, effective July 1, 2017, as stated in the June 8, 2017 eligibility determination notice. Your child's enrollment was confirmed for July 1, 2017, in the June 9, 2017 plan enrollment notice.

Since there is no proof that NYSOH sent you proper notice of an inconsistency in your NYSOH account regarding your child's income, we must assume that the information provided on June 7, 2017, would have been provided by the March 19, 2017 deadline had you known it was required. As such, that portion of the March 25, 2017 eligibility determination notice stating that your child was eligible

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to purchase a qualified health plan at full cost and was no longer eligible for the Essential Plan, effective May 1, 2017, because you failed to submit income documentation for her is RESCINDED.

It follows that the March 26, 2017 disenrollment notice stating that your child's Essential Plan coverage ended on April 30, 2017 because she was no longer eligible to enroll in the Essential Plan is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's coverage in her Essential Plan as of May 1, 2017, and to notify you accordingly.

You will be responsible for any Essential Plan premiums due for the months of May 2017 and June 2017.

## **Decision**

The March 25, 2017 eligibility determination notice is RESCINDED as to that portion that states your child was eligible to purchase a qualified health plan at full cost and was no longer eligible for the Essential Plan, effective May 1, 2017, because you failed to submit documentation for her.

The March 26, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's coverage in her Essential Plan as of May 1, 2017, and to notify you accordingly.

You will be responsible for any premiums due to the Essential Plan for the months of May 2017 and June 2017.

**Effective Date of this Decision:** November 24, 2017

## **How this Decision Affects Your Eligibility**

NYSOH erred in terminating your child's Essential Plan effective May 1, 2017, without proof that the proper notice was sent.

Your case is being sent back to NYSOH to reinstate your child's coverage in her Essential Plan as of May 1, 2017. NYSOH will notify you once this has been done.

You will be responsible for any premium payments due for the months of May 2017 and June 2017.

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## **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

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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The March 25, 2017 eligibility determination notice is RESCINDED as to that portion that states your child was eligible to purchase a qualified health plan at full cost and was no longer eligible for the Essential Plan, effective May 1, 2017, because you failed to submit documentation for her.

The March 26, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's coverage in her Essential Plan as of May 1, 2017, and to notify you accordingly.

You will be responsible for any premiums due to the Essential Plan for the months of May 2017 and June 2017.

NYSOH erred in terminating your child's Essential Plan effective May 1, 2017, without proof that the proper notice was sent.

Your case is being sent back to NYSOH to reinstate your child's coverage in her Essential Plan as of May 1, 2017. NYSOH will notify you once this has been done.

You will be responsible for any premium payments due for the months of May 2017 and June 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.

### 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&btumi ama wo obi a okyerε kasa a woka no ase ama wo kwa a wontua hwee.

## **(Urdu) اردو**

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

## **Tiếng Việt (Vietnamese)**

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

## **אידיש (Yiddish)**

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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