



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

## Notice of Decision

Decision Date: November 21, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021888

[REDACTED]

Dear [REDACTED],

On November 2, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 27, 2017 eligibility determination notice, July 27, 2017 disenrollment notice, August 17, 2017 eligibility determination notice, and the 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 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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## Decision

Decision Date: November 21, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021888



## 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 eligibility for and enrollment in the Essential Plan ended effective August 31, 2017?

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

## Procedural History

On March 22, 2017, NYSOH received your application for financial assistance with health insurance.

On March 23, 2017, NYSOH issued a notice of eligibility determination stating that you 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's income before June 20, 2017 in order to confirm your eligibility for financial assistance.

On March 23, 2017, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective May 1, 2017.

On June 13, 2017, you uploaded income documentation to your NYSOH account.

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Also on June 13, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account.

On June 14, 2017, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application and that additional documentation was due by July 5, 2017.

On July 11, 2017, you updated your application for financial assistance.

On July 12, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective August 1, 2017. The notice directed you to provide documentation confirming your household's income before July 20, 2017 in order to confirm your eligibility for financial assistance.

No additional income documentation was received by July 20, 2017.

On July 27, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost. The notice stated that you 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 September 1, 2017.

Also on July 27, 2017, NYSOH issued a disenrollment notice stating that your coverage in your Essential Plan would end on August 31, 2017. This was because you were no longer eligible to enroll in the Essential Plan.

On August 16, 2017, you updated your application for financial assistance.

On August 17, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective October 1, 2017. The notice directed you to provide documentation confirming your household's income before November 14, 2017 in order to confirm your eligibility for financial assistance.

Also on August 17, 2017, NYSOH issue a notice of enrollment confirmation, based on your plan selection on August 16, 2017, stating that you were reenrolled in an Essential Plan effective October 1, 2017.

On August 28, 2017, you uploaded income documentation to your NYSOH account.

Also on August 28, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan for the month of September 2017.

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On August 29, 2017, NYSOH reviewed the income documentation you submitted and determined that this was sufficient documentation of your household's income and submitted an application on your behalf.

On August 30, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for the Essential Plan, effective October 1, 2017.

On November 2, 2017, you 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 that you had previously elected to receive all of your notices from NYSOH via regular mail. You went on to testify that you changed this preference to electronic mailing approximately one month prior to the hearing.
- 2) On September 22, 2017, NYSOH issued a notice stating that you had selected to get information from NYSOH via electronic mail.
- 3) You testified that you believe you probably received the March 23, 2017 eligibility determination notice stating that your eligibility was limited and that you needed to submit income documentation.
- 4) On June 13, 2017, you uploaded your spouse's Social Security Award letter and one of your paystub for pay date February 13, 2017.
- 5) Also on June 13, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account as the paystub you submitted was more than thirty days old.
- 6) You testified that you are not sure if you received the June 14, 2017 notice advising you that the income documentation you submitted did not confirm the information in your account and additional documentation was due by July 5, 2017. You explained that you were away from home during June 2017 and July 2017 and you are not sure what mail you received while you were away.
- 7) You testified that you were not sure if you had updated your mailing address while you were away.

- 8) Your NYSOH account reflects that your mailing address has been listed as [REDACTED] since November 28, 2016.
- 9) You testified that you believe you probably did receive the July 12, 2017 eligibility determination notice stating that your eligibility was limited and that you needed to submit income documentation by July 20, 2017, however, you believe you received this notice while you were away, and did not see that you needed to submit additional income documentation until after the July 20, 2017 deadline.
- 10) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 11) Your NYSOH account indicates that on July 26, 2017 your application was run and you were found no longer eligible for the Essential Plan as of August 31, 2017.
- 12) You testified that you learned that you had been disenrolled from your Essential Plan when you received the July 27, 2017 notice advising you that your coverage would end on August 31, 2017.
- 13) You testified that you probably updated your application in August 2017, but it may have been July 2017.
- 14) Your NYSOH account reflects that you updated the income information in your NYSOH account on August 16, 2017.
- 15) On August 28, 2017, you uploaded one of your paystubs for pay date August 7, 2017 indicating that you receive a salary of \$2,083.33 as well as a letter signed by your younger child and dated August 28, 2017 stating that she has been unemployed in 2017 and that her only source of income for 2017 were residual checks totaling less than \$20.00.
- 16) The applications that you submitted on March 22, 2017 and July 11, 2017 indicated that you and your spouse will file your 2017 as married filing jointly and you will claim your younger child as a dependent. You confirmed that this is correct.
- 17) You testified that you are seeking reenrollment in your Essential Plan as of September 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)).

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

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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 your eligibility for the Essential Plan ended effective August 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 determination issued on March 23, 2017, you were advised that you were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income before June 20, 2017. In the eligibility determination issued on July 12, 2017, you were again advised that you were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income before July 20, 2017.

You testified that you believe you probably did receive the March 23, 2017 notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. You testified that you had previously elected to receive notifications by regular mail. You also testified that you believe you probably did receive the July 12, 2017 eligibility determination notice stating that your eligibility was limited and that you needed to submit income documentation by July 20, 2017, however, you believe you received this notice while you were away, and did not see that you needed to submit additional income documentation until after the July 20, 2017 deadline. There is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

On June 13, 2017, you submitted one of your paystubs for pay date February 13, 2017 as well as your spouse's Social Security Award letter.

Also on June 13, 2017, NYSOH determined that this was insufficient proof of your household's income as the paystub you submitted was more than thirty days old.



On June 14, 2017, NYSOH issued a notice advising you that the income documentation you submitted did not confirm the information in your application and additional documentation was due by July 5, 2017.

You testified that you are not sure if you received the June 14, 2017 notice from NYSOH telling you that you needed to provide additional income documentation to confirm your eligibility. However, you testified that you were still receiving notifications by regular mail at that time and this notice was not returned to NYSOH as undeliverable.

Therefore, NYSOH properly notified you that your eligibility for the Essential Plan remained limited and that additional income documentation was needed in order to confirm the income listed in your 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 eligibility for the Essential Plan terminated as of August 31, 2017 because you did not submit documentation and did not adequately demonstrate that you could not provide documentation to confirm your income.

Therefore, the July 27, 2017 eligibility determination notice and the July 27, 2017 disenrollment notice are AFFIRMED.

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

Your NYSOH account reflects that you updated your NYSOH application on August 16, 2017. That day you selected an Essential Plan 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 on August 16, 2017, you selected an Essential Plan, your reenrollment would properly take effect on the first day of the second month following August 2017; that is, on October 1, 2017.

Therefore, the August 17, 2017 eligibility determination notice, and the August 17, 2017 enrollment confirmation notice stating that your eligibility for and

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reenrollment in the Essential Plan was effective October 1, 2017, is correct and must be AFFIRMED.

## **Decision**

The July 27, 2017 notice of eligibility determination is AFFIRMED.

The July 27, 2017 disenrollment notice is AFFIRMED.

The August 17, 2017 notice of eligibility determination is AFFIRMED.

The August 17, 2017 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** November 21, 2017

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

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

NYSOH properly found that your reenrollment in the Essential Plan was effective October 1, 2017.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

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

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

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

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

You can contact us in any of the following ways:

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

### **Summary**

The July 27, 2017 notice of eligibility determination is AFFIRMED.

The July 27, 2017 disenrollment notice is AFFIRMED.

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

The August 17, 2017 notice of eligibility determination is AFFIRMED.

The August 17, 2017 enrollment confirmation notice is AFFIRMED.

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NYSOH properly found that your reenrollment in the Essential Plan was effective October 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.

### 中文 (Simplified Chinese)

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### Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

### 한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

### Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

### العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

### বাংলা (Bengali)

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এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

### **Français (French)**

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

### **हिंदी (Hindi)**

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया नि:शुल्क 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 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.

### **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 אייך געבן א דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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