



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

## Notice of Decision

Decision Date: November 30, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022285

[REDACTED]

[REDACTED]

On November 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 30, 2017 discontinuance and plan disenrollment notices.

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 30, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022285



## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that you and your children's eligibility for and enrollment in the Essential Plan terminated effective September 1, 2017?

## Procedural History

On August 12, 2017, NY State of Health (NYSOH) issued an eligibility determination notice stating that you and your children were eligible to enroll in the Essential Plan with \$20.00 monthly premiums, effective September 1, 2017.

Also on August 12, 2017, NYSOH issued a plan enrollment notice confirming your and your children's enrollment in Essential Plans with \$20.00 monthly premiums, effective September 1, 2017.

On August 15, 2017, NYSOH issued a plan enrollment notice confirming your and your children's enrollment in Essential Plans with \$20.00 monthly premiums, effective September 1, 2017.

On August 25, 2017, the August 15, 2017 plan enrollment notice was returned to NYSOH as undeliverable, which was uploaded to your NYSOH account on August 29, 2017.

On August 30, 2017, NYSOH issued a discontinuance notice stating that you and your children were no longer eligible for health insurance through NYSOH,

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effective September 2, 2017, because notices regarding your and your children's eligibility coverage sent to you by NYSOH were returned to the Marketplace as undeliverable. This notice also stated that you needed to update your mailing address so that you and your children could remain eligible for health coverage through NYSOH.

Also on August 30, 2017, NYSOH issued a plan disenrollment notice confirming that your and your children's Essential Plan coverage would end as of September 1, 2017.

On September 5, 2017, NYSOH received your updated application for financial assistance with health insurance.

On September 6, 2017, NYSOH issued an eligibility determination notice stating that you and your children were eligible to enroll in Essential Plans with \$20.00 monthly premiums, effective October 1, 2017.

On September 6, 2017, NYSOH issued a plan enrollment notice confirming your and your children's enrollment in your Essential Plans, effective October 1, 2017.

Also on September 6, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your and your children's Essential Plan for the month of September 2017.

On November 27, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed 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, you submitted an updated application for financial assistance on August 12, 2017. You and your children were enrolled into Essential Plans that day, effective September 1, 2017.
- 2) According to your NYSOH account, you and your children were disenrolled from your Essential Plans, effective September 1, 2017.
- 3) According to your NYSOH account, the August 15, 2017 plan enrollment notice was returned to NYSOH as undeliverable on August 25, 2017. This notice was uploaded to your NYSOH account on August 29, 2017.

- 4) According to your NYSOH account, the August 15, 2017 plan enrollment notice was address to: [REDACTED].
- 5) You testified that this mailing address was correct, and still is the correct mailing address for you.
- 6) You testified that you spoke with the United States Postal Service (USPS) about the returned mail from NYSOH and they informed you that, during that time, you had a substitute postman who was not acclimated with delivering mail in your building.
- 7) You testified that you have received notices from NYSOH at your mailing address in the past and that you continue to receive notices from NYSOH at that address.
- 8) You testified that you are seeking to have yourself and your children enrolled into your Essential Plans, effective September 1, 2017, because you have unpaid medical bills from that month.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Essential Plan Eligibility

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).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your and your children's enrollment in the Essential Plan terminated effective September 1, 2017.

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For an applicant to remain eligible for enrollment in an Essential Plan through NYSOH, they must meet both the financial and non-financial requirements. One of the non-financial requirements is that the applicant must be a New York State resident.

According to your NYSOH account, on August 15, 2017, NYSOH issued a plan enrollment notice that was returned as undeliverable on August 25, 2017. This returned notice was uploaded to your account on August 29, 2017.

As a result, you and your children were disenrolled from your Essential Plans because NYOSH received mail addressed to you that was undeliverable. Therefore, the system assumed that you and your children no longer met the state residency requirement for enrollment in an Essential Plan. As such, on August 30, 2017, NYSOH issued a discontinuance notice and a plan disenrollment notice, stating respectively that you and your children were no longer eligible to enroll in a health insurance through NYSOH and your coverage would end effective September 1, 2017.

However, a review of the record, along with your testimony, demonstrates that this was the only notice that were returned to NYSOH as undeliverable, despite several other notices being sent to the exact same mailing address before and after the notice was returned as undeliverable. You testified that you have not moved from your residence for at least twenty years and receive mail at that address.

Based on the credible evidence of the record, it is reasonable to conclude that the notice that was returned as undeliverable was through no fault of your own, and quite possibly the result of an error of the United States Postal Service. As a result, it is reasonable to conclude that your and your children's disenrollment from your Essential Plans was in error.

Therefore, the August 30, 2017 discontinuance and plan disenrollment notices must be RESCINDED.

Your case is RETURNED to NYSOH to reinstate you and your children in your Essential Plans, effective September 1, 2017, and to notify you accordingly.

## **Decision**

The August 30, 2017 discontinuance notice is RESCINDED.

The August 30, 2017 plan disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate you and your children in your Essential Plans, effective September 1, 2017, and to notify you accordingly.

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).

**Effective Date of this Decision:** November 30, 2017

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

Your case is being sent back to NYSOH to reenroll you and your children in your Essential Plans, effective September 1, 2017.

NYSOH will notify you once this change has been completed.

It is your responsibility to pay the monthly premium directly to your and your children's Essential Plans in order for coverage to start as of September 1, 2017.

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

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

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

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

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

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

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

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

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

You can contact us in any of the following ways:

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

### **Summary**

The August 30, 2017 discontinuance notice is RESCINDED.

The August 30, 2017 plan disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate you and your children in your Essential Plans, effective September 1, 2017, and to notify you accordingly.

Your case is being sent back to NYSOH to re-enroll you and your children in your Essential Plans, effective September 1, 2017.

NYSOH will notify you once this change has been completed.

It is your responsibility to pay the monthly premium directly to your and your children's Essential Plans in order for coverage to start as of 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.

### 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.

### 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.

### (Bengali)

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1-855-355-5777

### **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. y&btumi ama wo obi a okyerE 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.

### **אַײַדיש (Yiddish)**

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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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