



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

**Notice of Decision**

Decision Date: December 05, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022576

[REDACTED]

[REDACTED]

On November 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health’s September 14, 2017 plan disenrollment notice and September 23, 2017 plan enrollment 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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DEPARTMENT OF HEALTH  
P.O. Box 11729  
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## Decision

Decision Date: December 05, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022576

[REDACTED]

## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NYSOH properly terminate your Essential Plan for non-payment of premium, effective September 1, 2017?

Did NY State of Health properly determine that your enrollment in your Essential Plan was next effective November 1, 2017?

## Procedural History

On July 2, 2017, NY State of Health (NYSOH) issued a renewal and eligibility determination notice stating that it was time to renew your health insurance through NYSOH. This notice further stated that, based on state and federal data sources, you were found eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective September 1, 2017.

On July 17, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in an Essential Plan with a \$20.00 monthly premium, effective September 1, 2017. This notice further stated that NYSOH enrolled you into the Essential Plan because it was similar to the coverage you had before with this insurance company.

On September 14, 2017, NYSOH issued a plan disenrollment notice stating that you were disenrolled from your Essential Plan as of September 1, 2017. This notice further stated that this was because you did not pay your insurance bill by the payment deadline.

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On September 19, 2017, you contacted NYSOH and you were able to re-enroll into an Essential Plan, effective November 1, 2017.

Also on September 19, 2017, you spoke to NYSOH's Accounts Review Unit and appealed the start date of your Essential Plan insofar as it did not begin on September 1, 2017.

On September 22, 2017, NYSOH issued a plan enrollment notice, based on your September 19, 2017 plan selection, confirming your enrollment in an Essential Plan with a \$20.00 monthly premium, effective November 1, 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 held open to allow for the Hearing Officer to listen to the telephone recordings from NYSOH's Call Center from September 13, 2017.

The Hearing Officer listened to the available telephone recording from September 13, 2017, after which the record was closed.

### **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) The record indicates that you were found eligible for Medicaid, effective September 1, 2016.
- 2) You were determined eligible for the Essential Plan on July 2, 2017, with an effective date of September 1, 2017.
- 3) Your NYSOH account indicates that you receive your notices from NYSOH by regular mail.
- 4) You testified that you did not receive any notices in the mail telling you that you were eligible for and enrolled in an Essential Plan with a \$20.00 monthly premium, effective September 1, 2017.
- 5) No notices sent to you at the mailing address listed on your NYSOH account have been returned as undeliverable.
- 6) You testified that you did not know you were enrolled into an Essential Plan or that you would have to start paying premiums for your health insurance until September 2017, so you made no premium payments.

- 7) The record indicates that you were disenrolled from your Essential Plan, effective September 1, 2017 for non-payment of premium by the payment deadline.
- 8) You testified that, had you known you had to pay a premium, you would have paid your premium payment on time.
- 9) You testified, and the record indicates, that you contacted NYSOH twice on September 13, 2017 in order to re-enroll into an Essential Plan, but you were not able to re-enroll into a plan that day.
- 10) NYSOH's Appeals Unit reviewed the telephone recording of the call you had with a NYSOH representative on September 13, 2017, and determined that:
  - a. The reason for your call was to inquire as to why your health insurance coverage was not valid.
  - b. You informed the NYSOH representative that you had contacted your health insurance provider and they informed you that you had been disenrolled for non-payment of premium.
  - c. The NYSOH representative informed you that your coverage was still in NYSOH system, and that you needed to call your health insurance provider back to pay your premium in order for the coverage to become active.
  - d. At no time during this telephone call did the NYSOH representative inform you that you needed to re-enroll into an Essential Plan.
- 11) The disenrollment notice was issued by NYSOH on September 14, 2017, after your telephone conversation with NYSOH.
- 12) The record indicates that you re-enrolled into an Essential Plan on September 19, 2017.
- 13) You testified that you are seeking to have coverage in the Essential Plan as of September 1, 2017 because you have medical bills from this month.

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

## **Applicable Law and Regulations**

### Appealable Issues

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax

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credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (4) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

### Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every twelve months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual’s account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR § 155.335(h)).

### 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

You testified that you originally filed the appeal because you did not know that your eligibility changed, and that you were automatically enrolled in an Essential Plan which required a premium payment that you did not make because you were not aware it was due.

Generally, NYSOH will redetermine a qualified individual's eligibility for Medicaid once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's July 2, 2017 renewal notice stated that it was time to renew your coverage through NYSOH. This notice further stated that, based on state and federal data sources, NYSOH found you eligible for the Essential Plan with a \$20.00 monthly premium, effective September 1, 2017.

You testified that you did not receive any notice from NYSOH telling you that you were found eligible for the Essential Plan or that you had to start paying a premium for your health insurance coverage. Your NYSOH account confirms that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, the record reflects that NYSOH properly notified you of your annual renewal and new eligibility determination for the upcoming insurance year.

The first issue under review is whether NYSOH properly terminated your Essential Plan coverage for non-payment of premium, effective September 1, 2017.

You were originally found eligible for the Essential Plan effective September 1, 2017, as noted in the July 2, 2017 renewal and eligibility determination notice. You testified that you would have paid your premiums to your Essential Plan for September 2017, but you were not aware that you had been automatically enrolled into an Essential Plan with a \$20.00 monthly premium. As a result, you testified that you were late with your payment to your Essential Plan for September 2017.

On September 14, 2017, NYSOH issued a notice stating that you were disenrolled from your health plan for non-payment of the premium, effective September 1, 2017.

NYSOH Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the

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premium tax credit and level of cost-sharing reductions, (3) a failure to provide timely notice of an eligibility determination, and (4) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether you were properly terminated from your health plan for non-payment of premiums. Therefore, your appeal of the September 14, 2017 disenrollment notice is **DISMISSED** as a non-appealable issue.

The second issue under review is whether NYSOH properly determined that your enrollment in your Essential Plan was effective November 1, 2017.

The record shows that, on September 19, 2017, you contacted NYSOH and you were able to re-enroll into an Essential Plan.

Ordinarily, the date on which the 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 after the fifteenth day of a month goes into effect on the first day of the second following month.

However, after review of the record, it is determined that you contacted NYSOH on September 13, 2017 and informed NYSOH that your health insurance had lapsed due to non-payment of the premium. At no time during this telephone call did the NYSOH representative assist you in re-enrolling into an Essential Plan. Further, the NYSOH representative informed you that you needed to contact your Essential Plan and pay your first premium payment in order for your Essential Plan coverage to become active, which was not accurate. Notably, the disenrollment notice was issued on September 14, 2017, the day after your telephone conversation with NYSOH. Therefore, based on the credible evidence of record, it is reasonable to infer that, had you been offered and able to select an Essential Plan prior to the 15<sup>th</sup> of September 2017, you would have selected an Essential Plan for re-enrollment. Had you been able to select an Essential Plan for enrollment prior to the 15<sup>th</sup> of September 2017, your Essential Plan coverage would have taken effect on the first day following September 2017; that is, on October 1, 2017.

Therefore, the September 23, 2017 plan enrollment notice confirming your enrollment in your Essential Plan, effective November 1, 2017, is **MODIFIED** to state that your enrollment in your Essential Plan was effective October 1, 2017.

Your case is **RETURNED** to NYSOH to ensure that your Essential Plan coverage begins as of October 1, 2017, and to notify you accordingly.



## **Decision**

Your appeal of the September 14, 2017 plan disenrollment notice is **DISMISSED** as a non-appealable issue.

The September 23, 2017 plan enrollment notice is **MODIFIED** to state that your coverage in your Essential Plan was effective October 1, 2017.

Your case is **RETURNED** to NYSOH to ensure that your enrollment in your Essential Plan is effective as of October 1, 2017, and to notify you accordingly.

**Effective Date of this Decision:** December 05, 2017

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

NYSOH properly notified you of your renewal and new eligibility determination.

This decision does not change your eligibility.

The effective date of your Essential Plan is October 1, 2017.

Your case is being sent back to NYSOH to change the start date of your Essential Plan from November 1, 2017 to October 1, 2017. NYSOH will notify you once this change has been completed.

It is your responsibility to pay the October 2017 monthly premium directly to your health plan for coverage to start as of October 1, 2017.

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

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your case was decided, 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.

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).

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

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## **Summary**

Your appeal of the September 14, 2017 plan disenrollment notice is **DISMISSED** as a non-appealable issue.

The September 23, 2017 plan enrollment notice is **MODIFIED** to state that your coverage in your Essential Plan was effective October 1, 2017.

Your case is **RETURNED** to NYSOH to ensure that your enrollment in your Essential Plan is effective as of October 1, 2017, and to notify you accordingly.

NYSOH properly notified you of your renewal and new eligibility determination.

This decision does not change your eligibility.

The effective date of your Essential Plan is October 1, 2017.

Your case is being sent back to NYSOH to change the start date of your Essential Plan from November 1, 2017 to October 1, 2017. NYSOH will notify you once this change has been completed.

It is your responsibility to pay the October 2017 monthly premium directly to your health plan for coverage to start as of 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)

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&etumi 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.

## **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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