



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

## Notice of Decision

Decision Date: December 01, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022769

[REDACTED]

[REDACTED]

On November 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 7, 2017 plan enrollment notice, and the September 22, 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).

This page intentionally left blank.



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

## Decision

Decision Date: December 01, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022769



## Issues

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

Did NY State of Health properly determine that you were enrolled in an Essential Plan, effective October 1, 2017?

Did NY State of Health properly determine that your eligibility for and enrollment in the Essential Plan terminated effective October 1, 2017?

## Procedural History

On September 6, 2017, NY State of Health (NYSOH) received your application for financial assistance with health insurance.

On September 7, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in an Essential Plan with a \$20.00 monthly premium, effective October 1, 2017.

On September 7, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in an Essential Plan with a \$20.00 monthly premium, effective October 1, 2017.

Also on September 7, 2017, NYSOH issued a notice stating that NYSOH received information from the U.S. Postal Service that your address has changed. This notice further stated that all future notices from NYSOH will be mailed to the new address unless NYSOH is notified of a correction.

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).

On September 18, 2017, the September 7, 2017 change of address notice was returned to NYSOH as undeliverable; which was uploaded to your NYSOH account on September 19, 2017.

On September 22, 2017, NYSOH issued a discontinuance notice stating that you were no longer eligible for health insurance through NYSOH, effective October 2, 2017, because notices regarding your 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 could remain eligible for health coverage through NYSOH.

Also on September 22, 2017, NYSOH issued a plan disenrollment notice confirming your Essential Plan coverage would end as of October 1, 2017.

On September 25, 2017, NYSOH received your updated application for financial assistance with health insurance. A preliminary eligibility determination was prepared that day stating that you were eligible to enroll in an Essential Plan with a \$20.00 monthly premium, effective November 1, 2017.

Also on September 25, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan coverage for the month of October 2017.

On September 26, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in your Essential Plan, effective November 1, 2017.

On October 1, 2017, NYSOH issued an eligibility determination stating that you were eligible to enroll 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. During the hearing, you requested to amend the appeal to seek a start date of September 1, 2017 for your Essential Plan coverage. The Hearing Officer agreed to amend the appeal to include this issue. 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 application for financial assistance on September 6, 2017, and you were enrolled into an Essential Plan that day, effective October 1, 2017.

- 2) According to your NYSOH account, you were disenrolled from your Essential Plans, effective October 1, 2017.
- 3) According to your NYSOH account, the September 7, 2017 change of address notice was returned to NYSOH as undeliverable on September 18, 2017. This notice was uploaded to your NYSOH account on September 19, 2017.
- 4) You testified that when you created your NYSOH account, you indicated that you would like your mailing address to be different from your residential address.
- 5) You testified that you prefer to receive mail at your office address because it is more reliable.
- 6) You NYSOH account indicates that your residential address is: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- 9) You testified that at no time did you request that your mailing address be changed.
- 10) You testified that you are seeking to be enrolled into your Essential Plan as of September 1, 2017 because you have unpaid medical bills from the month of September 2017 and October 2017.

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

## **Applicable Law and Regulations**

### Essential Plan Eligibility and Effective Date

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

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).

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).

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 first issue under review is whether NYSOH properly determined that your enrollment in an Essential Plan was effective October 1, 2017.

You testified, and the record indicates, that you submitted your NYSOH application on September 6, 2017. As a result, you were found eligible for the Essential Plan as of October 1, 2017, and enrolled into a plan that day.

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.

On September 6, 2017, you selected an Essential Plan, so your enrollment properly took effect on the first day of the first month following September 2017; that is, on October 1, 2017. You requested at the hearing to have your Essential Plan start September 1, 2017. Since you applied on September 6, 2017, the standard start date applies and there is no mechanism in the law that permits the Essential Plan to begin earlier.

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).

Therefore, the September 7, 2017 plan enrollment notice stating that your enrollment in the Essential Plan was effective October 1, 2017, is correct and must be AFFIRMED.

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

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.

You testified that when you set up your NYSOH account, you indicated that you would like your mailing address to be different from your residential address. Your NYSOH account indicates that your mailing address is: [REDACTED]

According to your NYSOH account, on September 7, 2017, NYSOH issued a notice, which indicates that they were informed by the U.S. Postal Service that your address has changed. This notice was sent to your residential address on file: [REDACTED] This notice was returned to NYSOH on September 18, 2017, and uploaded to your NYSOH account on September 19, 2017.

As a result, you were disenrolled your Essential Plan because NYOSH received mail addressed to you that was undeliverable. Therefore, the system assumed that you no longer met the state residency requirement for enrollment in an Essential Plan. As such, on September 23, 2017, NYSOH issued a discontinuance notice and a plan disenrollment notice respectively stating that you were no longer eligible to enroll in a health insurance through NYSOH and your coverage would end effective October 1, 2017.

However, a review of the record, along with your testimony, reflects that NYSOH issued this notice addressed to your residential address without your knowledge. You testified that you prefer to receive mail at your office address as it is more reliable, which is why you set up your NYSOH account to indicate that your mailing and residential address were different. You further testified that you did not request that NYSOH mail any notices to your residential address on file.

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 was a result of an error made by NYSOH. As a result, your disenrollment from your Essential Plan was in error.

Therefore, the September 22, 2017 discontinuance and plan disenrollment notices must be RESCINDED.

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).

Your case is RETURNED to NYSOH to reinstate you in your Essential Plan, effective October 1, 2017, and to notify you accordingly.

## **Decision**

The September 7, 2017 plan enrollment notice is AFFIRMED.

The September 22, 2017 discontinuance notice is RESCINDED.

The September 22, 2017 plan disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to enroll you in your Essential Plan, effective October 1, 2017, and to notify you accordingly.

**Effective Date of this Decision:** December 01, 2017

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

NYSOH properly determine that your enrollment in your Essential Plan was effective October 1, 2017.

Your case is being sent back to enroll you in your Essential Plan, effective October 1, 2017.

NYSOH will notify you once this change has been completed.

You are responsible for any premium payments for all months you are enrolled into coverage.

## **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

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).



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

### **Summary**

The September 7, 2017 plan enrollment notice is **AFFIRMED**.

NYSOH properly determine that your enrollment in your Essential Plan was effective October 1, 2017.

The September 22, 2017 discontinuance notice is **RESCINDED**.

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).

The September 22, 2017 plan disenrollment notice is RESCINDED.

Your case is being sent back to enroll you in your Essential Plan, effective October 1, 2017.

NYSOH will notify you once this change has been completed.

You are responsible for any premium payments for all months you are enrolled into coverage.

### **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)

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).

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 okyer& 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)**

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).

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.

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).