



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

Notice of Decision

Decision Date: December 08, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022799

[REDACTED]

[REDACTED]

On November 28, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 13, 2017 eligibility determination and disenrollment notices, and September 19, 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 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
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Decision Date: December 08, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022799



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 the Essential Plan ended effective September 30, 2017?

Did NYSOH properly determine that you were re-enrolled into an Essential Plan, effective November 1, 2017?

Procedural History

On May 22, 2017, you updated your application for financial assistance with health insurance.

On May 23, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$347.00 per month in advance payments of the premium tax credit, to be shared with your son, effective July 1, 2017.

On May 23, 2017, you again updated your NYSOH account.

On May 24, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$13.00 per month in advance payments of the premium tax credit, effective July 1, 2017.

On June 3, 2017, you again updated your NYSOH account.

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On June 4, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium for a limited time, effective July 1, 2017. The notice stated that you needed to submit documentation of your household income by September 1, 2017.

Also on June 4, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Essential Plan, beginning July 1, 2017.

On September 12, 2017, NYSOH redetermined your eligibility.

On September 13, 2017, NYSOH issued a notice of eligibility determination stating that you were newly eligible to enroll in a qualified health plan at full cost, effective October 1, 2017. The notice further stated that you did not qualify for Medicaid, the Essential Plan, or a tax credit because NYSOH did not receive the requested income documentation needed to verify the information in your application.

Also on September 13, 2017, NYSOH issued a notice of disenrollment, stating that your enrollment in your Essential Plan would end, effective September 30, 2017, because you were no longer eligible to enroll in the Essential Plan.

On September 18, 2017, you updated your NYSOH account. That day, NYSOH prepared a preliminary eligibility determination stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium for a limited time, effective November 1, 2017.

On September 19, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Essential Plan, beginning November 1, 2017.

Also on September 19, 2017, NYSOH issued a notice confirming that you selected to receive email alerts regarding notices issued in your NYSOH account.

On September 25, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan for the month of October 2017. You also requested Aid to Continue, pending the outcome of your appeal.

On October 4, 2017, NYSOH issued a notice of eligibility determination, stating that you were eligible for the Essential Plan for a limited time, effective October 1, 2017. This was because your request for Aid to Continue, pending the outcome of your appeal, was granted.

Also on October 4, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Essential Plan, beginning October 1, 2017. This was also because your request for Aid to Continue was granted pending the outcome of your appeal.

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On November 28, 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) Your NYSOH account reflects that you are currently enrolled to receive email alerts regarding notices in your NYSOH account.
- 2) You testified that you did not know that you were going to be disenrolled from your NYSOH account because you never received any notice that your insurance would be cut off on a "certain date."
- 3) You testified that NYSOH was contacting you at the wrong email address, and you did not know that notices were being issued in your NYSOH account.
- 4) You testified that you found out you were being disenrolled from your Essential Plan coverage when you received a notice in the mail stating that your coverage was ending.
- 5) You testified that you received more than one piece of mail from NYSOH in June 2017 and, once you saw that you had been given coverage, you just filed the others away.
- 6) You testified that you do not recall seeing the request for income documentation in the June 4, 2017 eligibility determination notice.
- 7) You testified that you submitted documentation of your income after you reapplied for coverage, and your NYSOH account confirms that income documentation was faxed to NYSOH on your behalf on October 2, 2017.
- 8) You testified that you did not submit any income documentation on behalf of your spouse because you do not live together, and have not lived together in almost ten years.
- 9) Your NYSOH account reflects that your spouse has been listed as a member of your household since you first applied for coverage in 2014.
- 10) Your NYSOH account reflects that, in the applications filed on May 22 and May 23, 2017, you listed income of \$30,000.00 for your spouse.

- 11) Your NYSOH account reflects that, in the application dated June 3, 2017, which resulted in a determination that you were eligible for the Essential Plan for a limited time, you indicated that your spouse had no income, but left her as a member of your household.
- 12) Your June 3, 2017 application indicates that your annual expected income for 2017 is \$32,000.00.
- 13) The documentation you submitted to NYSOH on October 2, 2017 consists of a third quarter wage statement indicating that, in the first nine months of 2017, you earned \$28,874.82 [REDACTED]
- 14) You testified that you and your spouse filed your tax return as “married filing jointly” last year, but that you do not plan on filing jointly for 2017.
- 15) Your NYSOH account reflects that you updated your application on September 18, 2017, and that NYSOH prepared a preliminary eligibility determination that day finding you eligible for the Essential Plan for a limited time, effective November 1, 2017. However, no eligibility determination notice was issued on this application.
- 16) NYSOH issued an enrollment confirmation notice, confirming your enrollment in an Essential Plan, beginning November 1, 2017, on September 19, 2017.
- 17) You testified that you are seeking reinstatement of your Essential Plan for the month of October 2017, and to continue to be eligible.

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/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 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 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 first issue under review is whether NYSOH properly determined that your eligibility for the Essential Plan ended effective September 30, 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 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 June 4, 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 September 1, 2017.

The record reflects that NYSOH did not receive the requested income documentation before the deadline. On September 13, 2017, NYSOH issued a disenrollment notice, stating that your enrollment in your Essential Plan was ending, effective September 30, 2017.

You testified that you did not know that NYSOH was issuing notices in your account stating that your insurance was going to end on a "certain date" because NYSOH was sending you email alerts at the wrong email address. However, you also testified that you found out that you were being disenrolled from your Essential Plan when you receive a notice in the mail stating that your enrollment was ending on September 30, 2017. You also acknowledged receiving notices in the mail on June 4, 2017, but stated that you did not remember seeing anything that asked you to submit income documentation because once you saw that you had been approved for coverage, you did not look at anything else.

Therefore, based on your testimony that you received the June 4, 2017 eligibility determination notice from NYSOH in the mail (which requested income documentation), it is concluded that NYSOH gave you the proper notice that you needed to submit documentation of your income to confirm your eligibility for the Essential Plan. As you did not submit documentation of your income information prior to the September 1, 2017 deadline, NYSOH properly disenrolled you from your Essential Plan, as stated in the September 13, 2017 disenrollment notice (which you also acknowledged receiving in the mail). Therefore, the September 13, 2017 eligibility determination and disenrollment notices are AFFIRMED.

The second issue under review is whether NYSOH properly determined that you were again eligible for, and enrolled in, the Essential Plan, effective November 1, 2017.

You updated your application on September 18, 2017. Though NYSOH failed to issue a notice of eligibility determination on this application, NYSOH did prepare a preliminary eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective November 1, 2017. NYSOH also issued an enrollment confirmation notice confirming your enrollment in an Essential Plan, effective November 1, 2017.

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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. 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.

Ordinarily, then, since you updated your NYSOH application on September 18, 2017, your new eligibility and enrollment would have properly gone into effective on November 1, 2017.

However, during the hearing, you testified that you do not live with your spouse, you will not be filing a tax return with her, and that you are the only person in your household. You also did not submit your wife's income with your application.

Your eligibility for the Essential Plan, which was based on a household of two, is therefore not correct. Moreover, you indicated in your application that your expected annual income is \$32,000.00. However, the income documentation that you submitted shows that you had earned \$28,874.82 in the first nine months of 2017 alone. This equates to gross monthly income of \$3,208.31 per month. Therefore, your expected gross annual income, based on the documentation you submitted in October 2017, is \$38,499.72 (\$3,208.31 times 12 months).

Based on the information provided in your testimony and the income documentation you provided to NYSOH, the preliminary eligibility determination finding you eligible for the Essential Plan, was not correct. As such, the September 19, 2017 enrollment confirmation notice, confirming your enrollment in an Essential Plan, effective November 1, 2017, is **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine your eligibility for financial assistance based on a household of one with an expected annual income of \$38,499.72, residing in Cortland County, effective November 1, 2017. This will also be determined based on the information that you are married, but are not filing jointly with your spouse.

NYSOH is directed to notify you of your eligibility in writing.

PLEASE NOTE: This decision relates to your eligibility for financial assistance for 2017 **ONLY**. If you wish to find out your eligibility for financial assistance with health insurance for 2018, you must update your NYSOH account during open enrollment, which runs from November 1, 2017 through January 31, 2018.

Decision

The September 13, 2017 notice of eligibility determination is **AFFIRMED**.

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The September 13, 2017 notice of disenrollment is **AFFIRMED**.

The September 19, 2017 notice of enrollment confirmation is **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine your eligibility for financial, based on a household of one with an expected annual income of \$38,499.72, residing in Cortland County, effective November 1, 2017. This will also be determined based on the information that you are married, but are not filing jointly with your spouse.

NYSOH is directed to notify you of your eligibility in writing.

Effective Date of this Decision: December 08, 2017

How this Decision Affects Your Eligibility

NYSOH properly disenrolled you from your Essential Plan coverage, effective September 30, 2017, for failure to provide documentation of your household income within the required timeframe.

Based on the information you provided during the hearing, and the income documentation you submitted to NYSOH, your eligibility for financial assistance must be redetermined, as it has been based on incorrect information regarding your income and household size.

The September 19, 2017 enrollment confirmation notice, placing you back in your Essential Plan coverage as of November 1, 2017 is being rescinded, as you were not eligible for the Essential Plan.

Your case is being sent back to NYSOH to redetermine your eligibility, effective November 1, 2017, based on the fact that you are in a household of one and have an annual expected gross income of \$38,499.72 for 2017. This will also be determined based on the information that you are married, but are not filing jointly with your spouse.

NYSOH will notify you in writing of your new eligibility.

PLEASE NOTE: This decision relates to your eligibility for financial assistance in 2017 **ONLY**. If you wish to find out whether you qualify for financial assistance for 2018, you must update your NYSOH account during open enrollment, which runs from November 1, 2017 through January 31, 2018.

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 September 13, 2017 notice of eligibility determination is AFFIRMED.

The September 13, 2017 notice of disenrollment is AFFIRMED.

The September 19, 2017 notice of enrollment confirmation is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial, based on a household of one with an expected annual income of \$38,499.72, residing in Cortland County, effective November 1, 2017.

NYSOH is directed to notify you of your eligibility in writing.

NYSOH properly disenrolled you from your Essential Plan coverage, effective September 30, 2017, for failure to provide documentation of your household income within the required timeframe.

Based on the information you provided during the hearing, and the income documentation you submitted to NYSOH, your eligibility for financial assistance must be redetermined, as it has been based on incorrect information regarding your income and household size.

The September 19, 2017 enrollment confirmation notice, placing you back in your Essential Plan coverage as of November 1, 2017 is being rescinded, as you were not eligible for the Essential Plan.

Your case is being sent back to NYSOH to redetermine your eligibility, effective November 1, 2017, based on the fact that you are in a household of one and have an annual expected gross income of \$38,499.72 for 2017. This will also be determined based on the information that you are married, but are not filing jointly with your spouse.

NYSOH will notify you in writing of your new eligibility.

PLEASE NOTE: This decision relates to your eligibility for financial assistance in 2017 ONLY. If you wish to find out whether you qualify for financial assistance for 2018, you must update your NYSOH account during open enrollment, which runs from November 1, 2017 through January 31, 2018.

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).

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

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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 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.