



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

**Notice of Decision**

Decision Date: December 21, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023036

[REDACTED]

Dear [REDACTED]

On December 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health’s August 21, 2017 eligibility determination notice and August 21, 2017 disenrollment 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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STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Decision

Decision Date: December 21, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023036



## Issue

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

Did NY State of Health (NYSOH) properly determine that your eligibility for financial assistance and enrollment in a qualified health plan ended effective August 31, 2017?

## Procedural History

On May 16, 2017, you submitted an application for financial assistance.

On May 17, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible for up to \$389.00 per month in advance payments of the premium tax credit (APTC), effective July 1, 2017. The notice further stated that your eligibility was limited as additional information was needed to confirm the information in your application. The notice also directed you to provide documentation confirming your citizenship status and social security number before August 14, 2017, in order to confirm your eligibility for financial assistance.

On May 18, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible for up to \$349.00 per month in APTC, effective July 1, 2017. The notice further stated that your eligibility was limited as additional information was needed to confirm the information in your application. The notice also directed you to provide documentation confirming your

citizenship status and social security number before August 14, 2017, in order to confirm your eligibility for financial assistance.

On May 19, 2017, NYSOH issued a notice of enrollment confirming your and your spouse's enrollment in a qualified health plan with a plan enrollment start date of July 1, 2017 and application of your APTC of \$349.00 to your premium as of July 1, 2017.

On August 21, 2017, NYSOH issued an eligibility determination notice stating that you were no longer eligible for health insurance through NYSOH, effective September 1, 2017. This was because you had not confirmed your citizenship status or social security number within the required timeframe.

Also on August 21, 2017, NYSOH issued a disenrollment notice stating that your enrollment in your qualified health plan would end on August 31, 2017. This was because you were no longer eligible to enroll in health insurance through NYSOH.

On September 1, 2017, you updated your application for financial assistance. Specifically, you updated your last name.

On September 2, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible for up to \$349.00 per month in APTC, effective October 1, 2017.

Also on September 2, 2017, NYSOH issued a notice of enrollment confirmation stating that you were reenrolled in a qualified health plan and that your APTC would be applied to your and your spouse's monthly premium as of October 1, 2017.

On October 2, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you were disenrolled from your qualified health plan for the month of September 2017.

On December 13, 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, and the record reflects, that you receive all of your notices from NYSOH by electronic mail.

- 2) You testified that you did not receive any electronic alerts notifying you of any notice in your NYSOH account stating that your eligibility was limited and that you needed to provide documentation of your citizenship status and social security number.
- 3) You testified that you are a natural born United States citizen. You also confirmed the social security number contained in your NYSOH account.
- 4) You explained that your married name appears on your marriage certificate as well as your driver's license, however, you have never updated your name from your maiden name to your married name with the Social Security Administration.
- 5) You testified that you did not know that you needed to submit documentation of your citizenship status or social security number until [REDACTED] when you went to a doctor's appointment and were advised that you had no coverage.
- 6) The record reflects that on September 1, 2017 you updated your application for financial assistance to reflect your maiden name.
- 7) You testified that you are seeking reinstatement in your qualified health plan for the month of September 2017.
- 8) On November 21, 2017, NYSOH uploaded an evidence packet to your NYSOH account. Contained within that evidence packet under the heading of "electronic notice requirement" is a three-page memorandum dated August 21, 2017. The memorandum sets forth the federal requirements regarding use of electronic communications and asserts that NYSOH is in compliance with federal regulation and guidance on the use of electronic notices. The memorandum asserts that "the electronic notification rules do not require that exchanges track and monitor consumers actual receipt of electronic notices".
- 9) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the May 17, 2017 eligibility determination notice or the May 18, 2017 eligibility determination notice.

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

## **Applicable Law and Regulations**

### Citizenship and Immigration Status

To enroll in a qualified health plan through NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5-day period. (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR §155.230(d); 42 CFR §435.918(b)(4)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you were no longer eligible to enroll in a qualified health plan through NYSOH, effective August 31, 2017.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that their citizenship status is satisfactory.

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).

If NYSOH cannot verify an individual's citizenship status, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency. For purposes of verifying citizenship, notice is considered received 5 days after the date on the notice.

In the eligibility determinations issued on May 17, 2017 and May 18, 2017, you were advised that your eligibility was limited, and that you needed to confirm your citizenship status before August 14, 2017.

The record reflects that NYSOH did not receive the requested citizenship documentation or documentation of your social security number before the deadline.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. Although NYSOH contends that it complied with federal mandates regarding electronic notices, there is no evidence in the file that NYSOH sent you an electronic alert notifying you of new notices available in your account on May 17, 2017 or May 18, 2017. You credibly testified that you did not receive an electronic alert regarding the eligibility determination notice, which directed you that your eligibility was limited and that you needed to submit documentation to confirm your citizenship status and social security number. There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation.

NYSOH is required to send applicants proper notice in order for applicants to take appropriate action. Since there is no evidence that NYSOH sent you an email alert, and you testified that you did not receive one, there is insufficient evidence in the record that NYSOH provided you with proper notice that you needed to submit documentation of your citizenship status or social security number by electronic means.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the August 21, 2017 eligibility determination notice stating that you are no longer eligible to enroll in health insurance through NYSOH for failure to submit documentation and the August 21, 2017 disenrollment notice are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reenroll you into your qualified health plan for the month of September 2017.

## **Decision**

The August 21, 2017 notice of eligibility determination 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 August 21, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reenroll you into your qualified health plan for the month of September 2017.

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

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

NYSOH erred in disenrolling you from qualified health plan effective August 31, 2017, without the proper notice.

Your case is being sent back to NYSOH to reenroll you into your qualified health plan for the month of September 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

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).



- 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 August 21, 2017 notice of eligibility determination is RESCINDED.

The August 21, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reenroll you into your qualified health plan for the month of September 2017.

NYSOH erred in disenrolling you from qualified health plan effective August 31, 2017, without the proper notice.

Your case is being sent back to NYSOH to reenroll you into your qualified health plan for the month of September 2017.

### **Legal Authority**

We are issuing this determination in accordance with 45 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).

**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।

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).

## **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 okyerε 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.

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).