



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

### Notice of Decision

Decision Date: January 10, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023059

[REDACTED]

I

[REDACTED]

On December 12, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 29, 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  
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## Decision

Decision Date: January 10, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023059



## Issues

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

Did NY State of Health properly determine that your enrollment in your Essential Plan did not begin until November 1, 2017?

Did NY State of Health properly determine that you were not eligible for Medicaid as of September 1, 2017?

## Procedural History

On August 23, 2017, NY State of Health (NYSOH) issued a notice, based on your August 22, 2017 updated application, stating that the income information in your application did not match what NY State of Health received from state and federal data sources. You were directed to provide proof of household income by September 6, 2017.

Also on August 23, 2017, NYSOH issued a disenrollment notice stating that your coverage with the Essential Plan will end on September 30, 2017, because you were no longer eligible for that program.

On September 11, 2017, you submitted a copy of a letter from your employer, dated September 11, 2017 [REDACTED]. This document was invalidated by NYSOH on September 21, 2017.

On September 22, 2017, NYSOH issued a notice stating that the documentation you submitted does not confirm the information in the application. The notice directed you to provide additional proof of income before December 20, 2017.

On September 29, 2017, a plan enrollment notice was issued, based on your September 28, 2017 plan selection, confirming your enrollment in the Essential Plan, effective November 1, 2017.

On September 30, 2017 and October 1, 2017, NYSOH issued eligibility determination notices, based on your September 28, 2017 updated application, stating that you were eligible to enroll in the Essential Plan for a limited time with a \$20.00 monthly premium, effective November 1, 2017. These notices directed you to provide proof of income by December 20, 2017.

On October 3, 2017, you appealed the September 29, 2017 plan enrollment notice insofar as your Essential Plan began on November 1, 2017, and not October 1, 2017.

On December 12, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The Hearing Officer granted your request to amend your appeal to include your eligibility for financial assistance and testimony was received.

The record was developed during the hearing and held open to December 27, 2017, to allow you time to submit supporting documentation.

As of December 27, 2017, the Appeals Unit did not receive any documents from you and none were viewable in your NYSOH account. Therefore, the record was closed that same day and this decision is based on the record as developed at the time of the hearing.

## **Findings of Fact**

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

- 1) According to your NYSOH account, upon updating your application for financial assistance on August 22, 2017, you were placed in pending Medicaid status and directed to provide proof of income before September 6, 2017 to confirm your eligibility. That same day, you were disenrolled from your Essential Plan effective September 30, 2017.
- 2) You testified that you did not receive any notice informing you that you needed to provide proof of income and that you were being terminated from your health plan until approximately three weeks after the August 23, 2017 notices were sent. You further testified that you often receive your

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notices late because you are a [REDACTED] and only look at your mail every couple of weeks when you go home.

- 3) You testified that, after receiving the disenrollment notice, you contacted NYSOH and were advised by the representative that you needed to submit proof of income.
- 4) On September 11, 2017, you submitted a copy of a letter from your employer, dated September 11, 2017, stating that you receive a salary of \$350.00 per week. This document was invalidated by NYSOH on September 21, 2017 because your application identified [REDACTED] as your employer, and this letter was provided by [REDACTED].
- 5) You testified that you have only one employer and [REDACTED] are one in the same.
- 6) According to your September 28, 2017 application, you expected to file a 2017 federal income tax return with a filing status of single and will claim no dependents on that tax return.
- 7) Based on your submitted documentation, your annual household income for 2017 is expected to be \$18,200.00. You testified that this income was incorrect because although you receive a salary of \$350.00 per week, you do not receive any pay during the weeks you take time off.
- 8) According to your September 28, 2017 application, your average monthly income in 2017 is the same as your income in September 2017. You testified that this is incorrect because you did not work for eight or nine days in the month of September 2017, because you [REDACTED] and were not paid at least one week of salary.
- 9) You believe you could be Medicaid eligible in that month.
- 10) You failed to submit proof of your current income for the 2017 tax year and for the month of September 2017.
- 11) According to your NYSOH account, your eligibility was redetermined on September 21, 2017, and you were found eligible for the Essential Plan for a limited time, effective November 1, 2017. You enrolled into an Essential Plan on September 28, 2017, with an effective date of November 1, 2017.
- 12) You testified that you wanted your enrollment in the Essential Plan to begin on October 1, 2017 because you did not know that you had no health coverage and incurred medical expenses and bills for prescriptions.

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

## **Applicable Law and Regulations**

### 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)).

### Verification Process

For all individuals, whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f) 42 CFR § 435.952).

### Timely Notice of Medicaid Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time-period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify that

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applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

### Medicaid

A person who meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard is eligible for Medicaid benefits (45 CFR § 155.305(c)). One of the non-financial criteria for Medicaid eligibility is the immigration status of the person applying for health insurance. A person is eligible for Medicaid when his or her immigration status is satisfactory and he or she meets all other requirements for Medicaid.

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your applications, that was the 2017 FPL, which is \$12,060.00 for a one-person household (82 Federal Register 8831).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your enrollment in your Essential Plan did not begin until November 1, 2017.

The record reflects that, on September 11, 2017, you submitted proof of income, which was invalidated by NYSOH on September 21, 2017. Also on September 21, 2017, your eligibility was updated on September 21, 2017 and you were found eligible for the Essential Plan for a limited time, effective November 1, 2017. You enrolled into an Essential Plan on September 28, 2017, with an effective date of November 1, 2017.

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You testified that you did not receive notice telling you that you needed to provide proof of income or the notice that you were being terminated from your Essential Plan eligibility in a timely manner. You further testified that you often receive your notices late because you are [REDACTED] and only look at your mail every couple of weeks when you go home.

However, your failure to go home and check your mail for NYSOH's notices in a timely manner, specifically, your August 23, 2017 notices of pending Medicaid status and disenrollment, so that you could act upon them is not an error or mistake attributable to NYSOH, its entities or instrumentalities.

Therefore, the record reflects that NYSOH properly notified you of your disenrollment and that proof of income needed to be provided to NYSOH to confirm your eligibility and ensure your enrollment in your health plan and eligibility for financial assistance would continue.

You first submitted proof of your income on September 11, 2017. These documents were invalidated on September 21, 2017, because your application identified "[REDACTED]" as your employer, and this letter was provided by [REDACTED]

However, you credibly testified that you have only one employer and that employer is "[REDACTED]," also known as "[REDACTED]." As such, NYSOH improperly invalidate your proof of income as of September 21, 2017, and for purposes of an eligibility determination, the application is considered complete as of September 11, 2017.

NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the completed application. To assess whether an eligibility determination was untimely, NYSOH must base the time-period from the date of the completed application to the date NYSOH notifies the applicant of its decision.

Although NYSOH originally determined your proof of income to be insufficient on September 21, 2017, your application as updated on September 28, 2017 resulted in you being found eligible for the Essential Plan for a limited time, effective November 1, 2017, as stated in the September 29, 2017 eligibility determination notice.

Since NYSOH issued an eligibility determination 37 days from the date your original August 22, 2017 application and 17 days from September 11, 2017, the date your application is considered complete by this decision. Therefore, the September 30, 2017 eligibility determination was timely.



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 28, 2017, you selected an Essential Plan, so your enrollment properly took effect on the first day of the second month following September 2017; that is, on November 1, 2017.

Therefore, the September 29, 2017 plan enrollment notice confirming that your enrollment in the Essential Plan was effective November 1, 2017, is correct and must be AFFIRMED.

The second issue under review is whether NYSOH properly determined that you were not eligible for Medicaid as of September 1, 2017.

According to your August 22, 2017 application, you expected to file a 2017 federal income tax return with a filing status of single and will claim no dependents on that tax return. Therefore, for purposes of this analysis you are in a one-person household.

According to your NYSOH application, your annual household income for 2017 is expected to be \$18,200.00, and your monthly income was expected to be the monthly average for that annual income. You testified that this income was incorrect, both on an annual and monthly basis, because you do not receive any pay during the weeks you take time off, and specifically, you did not work for eight or nine days in the month of September 2017, because you were ill.

The record was kept open to allow you time submit proof of your current income and your income for September 2017. Since you did not submit any such proof and the record is otherwise devoid of any such evidence, the merits of whether NYSOH properly determined you to be ineligible for Medicaid as of your September 28, 2017 updated application cannot be reached.

Therefore, the September 30, 2017 eligibility determination notice stating that you are eligible to enroll in the Essential Plan for a limited time, effective November 1, 2017, will not be disturbed. Additionally, this determination along with any subsequent eligibility determinations remain in full force and effect.

## **Decision**

The September 29, 2017 plan enrollment notice is AFFIRMED.

The September 30, 2017 eligibility determination notice will not be disturbed.

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 30, 2017 eligibility determination notice along with any subsequent eligibility determinations made by NYSOH remain in full force and effect.

**Effective Date of this Decision:** January 10, 2018

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

The merits of your eligibility for Medicaid cannot be reached because you failed to provide proof of income as directed.

This decision does not change your eligibility.

You remain eligible for the Essential Plan as of November 1, 2017.

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

This decision does not affect any subsequent eligibility determinations made by NYSOH.

### **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

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- 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 29, 2017 plan enrollment notice is AFFIRMED.

The September 30, 2017 eligibility determination notice will not be disturbed.

The September 30, 2017 eligibility determination notice along with any subsequent eligibility determinations made by NYSOH remain in full force and effect.

The merits of your eligibility for Medicaid cannot be reached because you failed to provide proof of income as directed.

This decision does not change your eligibility.

You remain eligible for the Essential Plan as of November 1, 2017.

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 effective date of your Essential Plan is November 1, 2017.

This decision does not affect any subsequent eligibility determinations made by NYSOH.

### **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)**

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### **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 مجانًا.

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## **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।

## **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 srε wo, frε 1-855-355-5777. ye&εtumi 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.

## **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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