



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

## Notice of Decision

Decision Date: December 07, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023084

[REDACTED]

[REDACTED]

On December 1, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 23, 2017 discontinuance and 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 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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## Decision

Decision Date: December 07, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023084

[REDACTED]

## 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 enrollment in an Essential Plan ended effective September 30, 2017?

## Procedural History

On March 24, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for the Essential Plan, effective May 1, 2017.

Also on March 24, 2017, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in an Essential Plan, effective May 1, 2017.

On September 13, 2017, you updated your address with NYSOH to [REDACTED]

On September 23, 2017, NYSOH issued a notice of discontinuance stating that you were no longer eligible to receive health insurance through NYSOH, effective November 1, 2017, because notices regarding your eligibility and coverage sent to you by NYSOH had been returned as undeliverable. This notice also stated that you needed to update your mailing address so that you could remain eligible for health coverage through NYOSH.

Also on September 23, 2017, NYSOH issued a disenrollment notice stating that your coverage in an Essential Plan was ending, effective September 30, 2017.

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On October 3, 2017, NYSOH received your updated application for financial assistance with health insurance. That day, a preliminary eligibility determination was prepared in response to that application, stating that you were eligible for an Essential Plan, effective November 1, 2017.

Also, on October 3, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as your Essential Plan started on November 1, 2017, and not October 1, 2017.

On October 4, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for an Essential Plan, effective November 1, 2017.

Also on October 4, 2017, NYSOH issued an enrollment confirmation notice, confirming that you were enrolled in an Essential Plan, effective November 1, 2017.

On December 1, 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 NYSOH records reflect, that you were determined eligible for an Essential Plan, effective May 1, 2017.
- 2) You testified and NYSOH records confirm that you were enrolled in an Essential Plan, effective May 1, 2017.
- 3) NYSOH records reflect that you were subsequently disenrolled from your Essential Plan, effective September 30, 2017.
- 4) You testified that you currently live at [REDACTED] and that you have lived there since September [REDACTED], 2017.
- 5) You testified that no one had been living at your address [REDACTED] for several months before you moved in.
- 6) You testified and NYSOH records reflect that on September 13, 2017, you updated your address with [REDACTED].
- 7) You testified that a representative from the US Postal Service advised you that a US Post office carrier incorrectly determined that your home [REDACTED].

[REDACTED] was vacant and did not deliver mail to your address.

- 8) Notices sent to you from NYSOH were addressed to [REDACTED] and returned to sender (NYSOH) and stating, "Unable to Forward."
- 9) You testified that you did not receive notices from NYSOH through no fault of your own and that it was due to an error by the US Post office.
- 10) You testified that the problem has been corrected with the U.S. Postal Service and that you have since received mail from [REDACTED].
- 11) You testified that you incurred medical bills in October 2017 and that you are seeking Essential Plan coverage for that month.

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

## **Applicable Law and Regulations**

### 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 § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your enrollment in an Essential Plan, ended effective September 30, 2017.

You testified, and NYSOH records reflect, that you were determined eligible for an Essential Plan, effective May 1, 2017. You testified and NYSOH records confirm that you were enrolled in an Essential Plan, effective May 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).

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.

Notices sent to you from NYSOH were addressed to [REDACTED], [REDACTED] and returned to sender (NYSOH).

As a result, you were disenrolled from 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 through NYSOH.

As such, on September 23, 2017, NYSOH issued a discontinuance notice and a plan disenrollment notice, stating that you were no longer eligible to enroll in the Essential Plan and that your Essential Plan coverage would end September 30, 2017.

However, you testified that you currently live at [REDACTED], [REDACTED] that you have lived there since September [REDACTED] 2017.

You testified and NYSOH records reflect that on September 13, 2017, you updated your address with [REDACTED] [REDACTED].

You testified that a representative from the U.S. Postal Service advised you that a U.S. Post office carrier incorrectly determined that your home [REDACTED] [REDACTED] ) was vacant and did not deliver mail to your address.

You testified that the problem has been corrected with the U.S. Postal Service and that you have since received mail from NYSOH at [REDACTED] [REDACTED].

Since the notices from NYSOH were returned as undeliverable despite your testimony and NYSOH records indicating that you timely updated your address with NYSOH, it is reasonable to conclude that the notices were returned as undeliverable through no fault of your own, and was the result of an error of the United States Postal Service. As a result, it is reasonable to conclude that your disenrollment from an Essential Plan was in error.

Therefore, the September 23, 2017 discontinuance and disenrollment notices must be RESCINDED.

Your case is RETURNED to NYSOH to reinstate you in an Essential Plan for the month of October 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).

## **Decision**

The September 23, 2017 discontinuance notice is RESCINDED.

The September 23, 2017 disenrollment notice is RESCINDED.

**Effective Date of this Decision:** December 07, 2017

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

Your case is RETURNED to NYSOH to reinstate you in an Essential Plan for the month of October 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
- By fax: 1-877-369-0129

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 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 23, 2017 discontinuance notice is RESCINDED.

The September 23, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate you in an Essential Plan for the month of October 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، يرجى الاتصال بالرقم 1-855-355-5777. يمكننا 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.

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