



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

Notice of Decision

Decision Date: February 02, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023937

[REDACTED]

On January 29, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's October 24, 2017 eligibility determination 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: February 02, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023937

[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 you were no longer eligible for the Essential Plan and properly end your coverage as of November 30, 2017?

Procedural History

On July 19, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan with a \$0.00 premium per month for a limited time, effective as of September 1, 2017. The notice directed you to submit additional income documentation by October 16, 2017, to confirm your eligibility.

On July 19, 2017, NYSOH issued a plan enrollment notice confirming that as of July 18, 2017, you were enrolled in an Essential Plan with an enrollment start date of September 1, 2017. The notice directed you to submit additional income documentation by October 16, 2017, to confirm your eligibility.

On October 23, 2017, your NYSOH account was systemically updated.

On October 24, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost, effective December 1, 2017. The notice stated that you were no longer eligible for Essential Plan coverage as of November 30, 2017, because NYSOH did not receive the income documentation needed to verify your eligibility.

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Also on October 24, 2017, NYSOH issued a disenrollment notice stating that your Essential Plan coverage would end on November 30, 2017, because you were no longer eligible to enroll in the Essential Plan.

On November 1, 2017, you faxed an appeal request to NYSOH. The request stated that you were appealing your Essential Plan coverage ending as of November 30, 2017 [REDACTED]; uploaded 11/02/2017).

Also on November 1, 2017, you faxed additional income documentation to your NYSOH account ([REDACTED]); uploaded 11/02/2017).

On November 2, 2017, your NYSOH account was updated.

On November 3, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for up to \$179.00 per month of the advance payment of the premium tax credit for a limited time, effective December 1, 2017.

On November 8, 2017, your NYSOH account was systemically updated.

On November 9, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for the Essential Plan with a \$0.00 premium for a limited time, effective December 1, 2017. You had been granted Aid to Continue until a decision is made on your appeal.

Also on November 9, 2017, NYSOH issued a plan enrollment notice confirming that as of November 8, 2017, you were enrolled in an Essential Plan with an enrollment start date of December 1, 2017.

On January 29, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, and the record was closed at 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 and testimony, you are applying for health insurance for yourself.
- 2) According to your NYSOH account, you were determined eligible for and enrolled in an Essential Plan as of September 1, 2017.
- 3) According to your NYSOH account and testimony, you receive notices from NYSOH electronically.

- 4) You testified that you do not recall receiving any email from NYSOH in July 2017, informing you that notices had been uploaded to your NYSOH account for your review.
- 5) According to your NYSOH account, no documentation was submitted to NYSOH before October 16, 2017.
- 6) You testified that the email address listed in your NYSOH account, [REDACTED] is your current email address.
- 7) 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”.
- 8) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the July 19, 2017 eligibility determination and plan enrollment notices.
- 9) According to your NYSOH account and testimony, you expect to file a 2018 federal income tax return with the tax status of single and do not expect to claim any dependents on that return.
- 10) According to your NYSOH account, you do not expect to claim any deductions on your 2018 federal income tax return.
- 11) On November 1, 2017, you submitted a letter from your employer, [REDACTED]. The letter states that you are paid \$350.00 a week in cash [REDACTED]; uploaded 11/02/2017).
- 12) According to your NYSOH account, you reside in [REDACTED] New York.

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

Applicable Law and Regulations

Essential Plan - Eligibility

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).

Verification of Eligibility - Income

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow the NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i)). 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 §600.345 (a)) See also New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence (45 CFR §155.315(f)(2)). If NYSOH remains unable to verify the information required to determine the applicant's eligibility 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 either by electronic alerts or by 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 (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

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Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross federal taxable income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)).

Household Composition

For APTC, CSR and the Essential Plan, the household size equals the number of individuals for whom the taxpayers are allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were no longer eligible for the Essential Plan and ended your coverage as of November 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 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 notices issued on July 19, 2017, you were advised that you were eligible for and enrolled in an Essential Plan for a limited time, and that you needed to submit additional income documentation by October 16, 2017, to confirm your eligibility.

The record reflects that NYSOH did not receive the requested income documentation by October 16, 2017.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically.

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If an 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. If the electronic alert fails, NYSOH must send out the notice by regular mail within three days of the failed alert.

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 a new notice available in your account on June 19, 2017. You credibly testified that you do not recall receiving any email from NYSOH in July 2017, informing you that notices had been uploaded to your NYSOH account for your review; specifically, the eligibility determination and plan enrollment notices, which directed you that your eligibility was limited and that you needed to submit documentation to confirm the household income in your application. There is also no evidence in your account documenting that any email alert was sent to you regarding the notice, that any such electronic alert failed, or that the notice was later sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit documentation of your income to confirm your eligibility for the Essential Plan. Since you did not receive proper notice that there was an inconsistency in your NYSOH account, the October 24, 2017 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to enroll you in an Essential Plan with a \$0.00 monthly premium as of December 1, 2017.

The record reflects that you expect to file a 2018 federal income tax return with the tax status of single and do not expect to claim any dependents on that return. Therefore, you are in a one-person household.

On November 1, 2017, you submitted a letter from your employer, [REDACTED] stating that you are paid \$350.00 a week in cash (see Document [REDACTED] uploaded 11/02/2017). Further, you do not expect to claim any deductions on your 2018 federal income tax return. Based on the available record, your expected 2018 annual household income is (\$350.00 X 52 weeks) \$18,200.00.

Therefore, your case is RETURNED to NYSOH to recalculate your eligibility for financial assistance based on a one-person household, for an individual living in [REDACTED], New York, with an expected household income of \$18, 200.00.

Decision

The October 24, 2017 eligibility determination notice is RESCINDED.

The October 24, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to enroll you in an Essential Plan with a \$0.00 monthly premium as of December 1, 2017.

Your case is further RETURNED to NYSOH to recalculate your eligibility for financial assistance based on a one-person household, for an individual living in [REDACTED], New York, with an expected household income of \$18, 200.00, and to notify you accordingly.

Effective Date of this Decision: February 02, 2018

How this Decision Affects Your Eligibility

NYSOH failed to give you proper notice of required documentation such that you were improperly determined ineligible for the Essential Plan and your coverage was improperly ended as of November 30, 2017.

Your case has been sent back to NYSOH to reinstate your Essential Plan coverage with a \$0.00 monthly premium as of December 1, 2017, which you had that month and currently have on an Aid to Continue basis.

Your case is also being sent back to NYSOH to recalculate your eligibility for financial assistance based on the parameters above. NYSOH will notify you of its redetermination.

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

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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
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The October 24, 2017 eligibility determination notice is **RESCINDED**.

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The October 24, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to enroll you in an Essential Plan with a \$0.00 monthly premium as of December 1, 2017.

Your case is further RETURNED to NYSOH to recalculate your eligibility for financial assistance based on a one-person household, for an individual living in [REDACTED], New York, with an expected household income of \$18, 200.00, and to notify you accordingly.

NYSOH failed to give you proper notice of required documentation such that you were improperly determined ineligible for the Essential Plan and your coverage was improperly ended as of November 30, 2017.

Your case has been sent back to NYSOH to reinstate your Essential Plan coverage with a \$0.00 monthly premium as of December 1, 2017, which you had that month and currently have on an Aid to Continue basis.

Your case is also being sent back to NYSOH to recalculate your eligibility for financial assistance based on the parameters above. NYSOH will notify you of its redetermination.

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، 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 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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