



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

Notice of Decision

Decision Date: January 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024029

[REDACTED]

[REDACTED]

On January 10, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 4, 2017 eligibility determination and enrollment confirmation 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 Date: January 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024029

[REDACTED]

Issues

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

Was your appeal of NY State of Health's (NYSOH) February 8, 2017 discontinuance and disenrollment notices timely?

Did NYSOH properly determine that your eligibility for, and enrollment in, an Essential Plan was effective December 1, 2017?

Procedural History

On December 2, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan with a \$0.00 monthly premium, effective January 1, 2017. You were enrolled into an Essential Plan on that same day.

On February 8, 2017, NYSOH issued a discontinuance notice stating that you were no longer eligible to enroll in coverage through NYSOH, effective March 1, 2017. This was because mail that was sent to you at the mailing address listed in your account was returned to NYSOH as undeliverable.

Also on February 8, 2017, NYSOH issued a disenrollment notice, stating that you were disenrolled from your Essential Plan 2 coverage, effective February 28, 2017, because you were no longer eligible to enroll in health insurance through NYSOH.

On November 3, 2017, you updated your NYSOH account. That day, NYSOH prepared a preliminary eligibility determination stating that you were eligible for the Essential Plan with no monthly premium, effective December 1, 2017.

That same day, you spoke to NYSOH's Account Review Unit and appealed, insofar as you did not have coverage for the months of March 2017 through November 2017.

On November 4, 2017, NYSOH issued a notice of eligibility determination, based on your November 3, 2017 application, stating that you were eligible to enroll in the Essential Plan with no monthly premium, effective December 1, 2017.

Also on November 4, 2017, NYSOH issued a notice of enrollment, based on your plan selection on November 3, 2017, stating that you were enrolled in an Essential Plan, and that your plan would start December 1, 2017.

On January 10, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, [REDACTED] interpreter, [REDACTED], provided interpretation. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) You first applied for health insurance through NYSOH in December of 2015.
- 2) You testified that you completed your initial application, and subsequent applications, with the assistance of an "acquaintance" who helps people file for health insurance, named [REDACTED].
- 3) Your NYSOH account reflects that your initial application was completed by someone with the username "[REDACTED]" as were application updates on December 1, 2016 and November 3, 2017.
- 4) You testified that you sat with this person and provided him with information, and he entered it into NYSOH's website.
- 5) You testified that you do not recall whether you showed him any driver's license or other identification with your address on it, but that he knows your address.
- 6) You testified that your address is [REDACTED]

- 7) Your NYSOH account reflects that your residential and mailing address were entered into your NYSOH application as [REDACTED] [REDACTED]” on December 4, 2015, and again on November 3, 2017 (emphasis added).
- 8) Your “ID Proofed Address” was entered into your NYSOH application as “ [REDACTED] ”
- 9) You testified that you have been living at your current address for at least two and a half years.
- 10) You testified that you never told the person who assisted you with your application that your address was “ [REDACTED] .”
- 11) Your NYSOH account reflects that a notice sent to you on December 5, 2015 was returned to NYSOH on December 21, 2015, with a sticker on the envelope reading, “Return to Sender, Not Deliverable As Addressed, Unable To Forward” [REDACTED]
- 12) Two notices sent to you December 2, 2016 were also returned to NYSOH as undeliverable on December 19, 2016, with stickers on the envelopes reading, “Return to Sender, Insufficient Address, Unable To Forward” [REDACTED]
- 13) On February 7, 2017, NYSOH redetermined your eligibility, and on February 8, 2017, NYSOH issued a discontinuance notice informing you that you were no longer eligible to enroll in coverage through NYSOH because mail sent to you at the address in your account was returned to NYSOH. A disenrollment notice was also issued that same day, stating that your enrollment in your Essential Plan coverage was ending as of February 28, 2017.
- 14) You testified that you received the February 8, 2017 notices from NYSOH.
- 15) During the hearing, you reviewed one of the notices you received from February 8, 2017 and acknowledged that the address on the notice was incorrect. You testified that you had not previously noticed this fact.
- 16) You testified that you did not know that you had lost your Essential Plan coverage until you were at your doctor’s office on [REDACTED]
- 17) You testified that you learned that your coverage expired because NYSOH was saying you moved, but you did not understand why, since you had not moved.

18) Your NYSOH account reflects that you updated your NYSOH application and selected an Essential Plan for enrollment on November 3, 2017.

19) You testified that you do not have any outstanding medical bills from the months when you were without coverage.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) a failure by the Exchange to provide timely notice of an eligibility determination; and (4) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

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).

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

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Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf).

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)).

Legal Analysis

The first issue under review is whether your appeal of NYSOH's February 8, 2017 discontinuance and disenrollment notices was timely.

An individual has the right to request an appeal of a NYSOH eligibility determination with which they do not agree, and must file that appeal within 60 days of the eligibility determination.

For an appeal of the February 8, 2017 discontinuance and disenrollment notices to have been timely, it would have to have been filed by April 9, 2017. According to the credible evidence in the record, you did not contact NYSOH until November 3, 2017 to file a formal appeal, which is 268 days from the February 8, 2017 discontinuance and disenrollment notices.

You testified that you did not realize that your Essential Plan coverage ended until [REDACTED], when you went to your doctor's office and found out that you had no coverage.

However, you testified during the hearing that you received the February 8, 2017 discontinuance and disenrollment notices, and you referred to at least one of those notices during the hearing. Though the address on the notices were incorrect, you acknowledged receipt of them. As both notices indicated that your Essential Plan coverage was ending as of February 28, 2017, it is concluded that you were therefore on notice of your disenrollment from your Essential Plan coverage, beginning March 1, 2017.

Therefore, there has been no timely appeal of the February 8, 2017 discontinuance and disenrollment notices, and your appeal on the issue of your disenrollment from your Essential Plan, as stated in those notices, is **DISMISSED**.

The second issue under review is whether NYSOH properly determined that your eligibility for, and enrollment in, the Essential Plan was effective December 1, 2017.

You testified, and the record indicates, that you updated your NYSOH application and selected a plan for enrollment on November 3, 2017. As a result, you were found eligible for the Essential Plan as of December 1, 2017, and your enrollment in your plan also began December 1, 2017.

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 November 3, 2017, you selected an Essential Plan, so your enrollment properly took effect on the first day of the month following November: that is, on December 1, 2017.

Therefore, the November 4, 2017 eligibility determination and enrollment confirmation notices, stating that your eligibility for, and enrollment in, the Essential Plan was effective December 1, 2017, are correct and must be AFFIRMED.

Decision

Your appeal of the February 8, 2017 discontinuance and disenrollment notices is DISMISSED as untimely.

The November 4, 2017 eligibility determination and enrollment confirmation notices are AFFIRMED.

Effective Date of this Decision: January 23, 2018

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

The effective date of your Essential Health Plan is December 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).

If You Disagree with this Decision (Appeal Rights)

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your case was decided, the 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 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 Have Questions about this Decision (Customer Service Resources):

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- By fax: 1-855-900-5557

Summary

Your appeal of the February 8, 2017 discontinuance and disenrollment notices is **DISMISSED** as untimely.

The November 4, 2017 eligibility determination and enrollment confirmation notices are **AFFIRMED**.

This decision does not change your eligibility.

The effective date of your Essential Health Plan is December 1, 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، 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&etumi 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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