

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

Notice of Decision

Decision Date: February 06, 2018

NY State of Health Account ID: Appeal Identification Number: AP00000024348



On January 4, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 3, 2017 eligibility determination and disenrollment notices and the October 31, 2017 eligibility determination 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.



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

Decision

Decision Date: February 06, 2018

NY State of Health Account ID:

Appeal Identification Number: AP000000024348



Issues

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

Did NY State of Health properly terminate you from the Essential Plan as of October 31, 2017?

Did NY State of Health properly determine that you were not eligible for the health coverage through NYSOH as of November 1, 2017?

Procedural History

On June 28, 2017, NY State of Health (NYSOH) issued an eligibility determination notice, based on your June 27, 2017 updated application, stating that you were eligible to enroll in the Essential Plan for a limited time, effective August 1, 2017. The notice directed you to provide proof of household income by September 25, 2017.

Also on June 28, 2017, a plan enrollment notice was issued confirming your enrollment in an Essential Plan with a premium of \$31.86 per month, effective August 1, 2017.

On August 2, 2017, you submitted a copy of two of your spouse's weekly paystubs, dated July 20, 2017 and July 27, 2017 (see Document). These documents were invalidated by NYSOH that same day.

On August 4, 2017, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. The notice directed you to submit additional proof of household income by September 25, 2017.

No additional proof of income documentation was received by September 25, 2017.

On October 2, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to share in up to \$664.00 in advanced payment of the premium tax credit with your spouse, effective November 1, 2017. The notice stated that this was because federal and state data sources showed that your household income is between \$22,108.00 and \$64,080.00.

On October 3, 2017, NYSOH issued a disenrollment notice stating that your Essential Plan coverage would end on October 31, 2017. This was because you were no longer eligible to enroll in the Essential Plan.

On October 17, 2017, NYSOH issued a notice, based on your October 16, 2017 updated application, stating that the information in your application did not match what NYSOH received from state and federal data sources. The notice directed you to provide proof of household income by October 31, 2017.

On October 26, 2017, you uploaded a letter from your spouse's employer, dated October 17, 2017, two Decision Notices from the Workman's Compensation Board, dated February 3, 2017 and August 4, 2017, and your spouse's weekly paystubs from her former employer, dated August 10, 2017 through September 14, 2017

These documents were validated by NYSOH on October 27, 2017.

On October 31, 2017, NYSOH issued an eligibility determination notice, based on your October 16, 2017 updated application, stating that you do not qualify to enroll in health insurance through NYSOH. This was because federal and state data sources showed that you were eligible for Medicare, over the age of 19 years old, were not a caretaker relative of a child, and your income was over the allowable limit for Medicaid.

On November 2, 2017, you updated your account and submitted one bi-weekly paystub from your spouse's new employer, dated October 18, 2017 (see

This document was validated that same day.

On November 3, 2017, NYSOH issued an eligibility determination notice again stating that you did not qualify to enroll in health insurance through NYSOH. This was because federal and state data sources showed that you were eligible for Medicare, over the age of 19 years old, were not a caretaker relative of a child, and your income was over the allowable limit for Medicaid.

Also on November 3, 2017, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. The notice directed you to submit addition proof of household income before November 17, 2017.

On November 14, 2017, you spoke to NYSOH's Account Review Unit and appealed your ineligibility for health insurance through NYSOH.

On November 17, 2017, you submitted a letter from the Social Security Administration, copy of your spouse's five weekly paystubs, dated August 17, 2017 through September 21, 2017, from her first employer, two bi-weekly paystubs, dated October 18, 2017 and November 1, 2017, from her second employer, along with a letter from your spouse's first employer, dated October 17, 2017

On December 18, 2017, you submitted a copy of your spouse's November 29, 2017 bi-weekly paystub (

On January 4, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to January 19, 2018, to allow you time to submit supporting documents.

On January 11, 2017, you uploaded a copy of your Workman's Compensation Board Administrative Decision, dated March 13, 2015, a letter for the Social Security Administration, dated October 31, 2017, and two Decision Notices from the Suffolk County Department of Social Services (SCDSS), dated December 12, 2017 and December 27, 2017. These documents were made part of the record as "Appellant's Exhibit A" and the record closed that day.

Findings of Fact

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

- According to your NYSOH account, you receive all your notices via regular mail.
- According to your NYSOH account, you were found conditionally eligible for the Essential Plan, effective August 1, 2017.
- 3) Pursuant to NYSOH's request, you submitted proof of income documentation, which was subsequently invalidated as insufficient by NYSOH on August 2, 2017, because you only provided two of four of your spouse's weekly consecutive paystubs. You were directed to provide

- additional proof of income documentation before September 25, 2017, as was stated in the August 4, 2017 notice.
- 4) You testified that you did not receive any notice from NYSOH telling you that you needed to provide additional income documentation to confirm your eligibility and that you were unsure as to why you were disenrolled from your Essential Plan. You believe this was a mistake of NYSOH.
- 5) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 6) No further documentation was received by NYSOH by September 25, 2017, and your eligibility was rerun based on federal and state data sources. You were found eligible for advance payment of the premium tax credit on October 2, 2017 with a November 1, 2017 effective date, and were disenrolled from your Essential Plan as of October 31, 2017.
- 7) According to your NYSOH account, you first submitted additional proof of income on October 26, 2017, which was validated by NYSOH on October 27, 2017.
- 8) As a result, your spouse was found eligible for Medicaid and you were found ineligible to enroll in health coverage as of November 1, 2017 because federal and state data sources showed that you were enrolled in Medicare.
- 9) You testified, and submitted a letter from Social Security Administration, dated October 31, 2017, to show that you were not enrolled in Medicare at the time of your November 14, 2017 application and that your request for disability is pending (see
- 10) You are seeking health insurance for yourself.
- 11) According to your NYSOH account, you expect to file your 2017 taxes with a tax filing status of married filing jointly. You will claim no dependents on that tax return.
- 12) The application that was submitted on November 14, 2017, listed a 2017 annual household income of \$23,056.00, consisting of \$23,056.00 your spouse expects to receive in employment income. You testified that your spouse's income is your household's only source of income.
- 13) According to your NYSOH account, you will not be taking any deductions on your 2017 income tax return.

- 14) You testified that you are seeking Essential Plan because you do not want to have a lapse in health coverage and the Essential Plan provides good coverage.
- 15) According to your Enrollment History Tab and Notes Tab, you were enrolled in the Essential Plan effective January 1, 2018 because of an "incorrect Medicare hit" on January 13, 2018.

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

Applicable Law and Regulations

Verification of Eligibility for the 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 noncitizen 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).

NYSOH must verify the eligibility of an applicant for the Essential Plan consistent with the standards set in 45 CFR § 155.315 and § 155.320 (New York's Basic Health Plan Blueprint, pgs. 16-17, as approved January 2016; see https://www.medicaid.gov/basic-health-program/basic-health-program.html; 42 CFR § 600.345(a)(2)).

An applicant is required to attest to their household's projected annual income. (45 CFR § 155.320(c)(3)(ii)(B)). For all individuals, whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must re-determine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any updates in eligibility to the Essential Plan effective the first day of the following month for changes received by NYSOH from the first to the fifteenth of any month (45 CFR § 155.420(b)(1)(i); see also 42 CFR § 600.320(c)). For updates 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 § 155.420(b)(1)(ii); see also 42 CFR § 600.320(c)).

Minimum Essential Coverage

Minimum essential coverage includes most government-sponsored insurance plans such as Medicaid, Medicare, CHIP, Tricare, Veterans' Health Coverage, and eligible employer-sponsored insurance (26 USC §§ 36B(c)(2)(B) and 5000A(f)).

According to 26 USC § 5000A, which is part of the Internal Revenue Code, various government-sponsored plans provide minimum essential coverage, including the Medicare program under part A of title XVIII of the Social Security Act (26 USC § 5000A(f)(1)(A)(i), 42 USCS §§ 1395c et seq.)).

Legal Analysis

Initially, it is noted, that you appealed your ineligibility for health insurance through NYSOH, however, it appears that as of January 13, 2018, NYSOH conceded your issue and granted your enrollment in the Essential Plan to be effective January 1, 2018. As such, the only remaining issue is the two months you remained without coverage in November 2017 and December 2017.

The first issue under review is whether NY State of Health properly terminated you from the Essential Plan as of October 31, 2017.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that the income provided in the application is accurate.

If NYSOH cannot verify an individual's income, 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.

In the eligibility determination issued on June 28, 2017, you were advised that your eligibility was only conditional, and that you needed to confirm your income before September 25, 2017. September 25, 2017 is 90 days from June 28, 2017, the date you updated your application.

Although you did submit proof of household income prior to the September 25, 2017, that income was invalidated by NYSOH because you only provided two of four of your spouse's consecutive weekly paystubs. As such, NYSOH sent you a notice on August 4, 2017 stating that additional proof of income was needed by September 25, 2017.

No additional proof of income documentation was received by NYSOH by September 25, 2017, and on October 2, 2017, your eligibility was systematically rerun based on federal and state data sources. As a result, you were found eligible to share in an advance payment of the premium to credit as of November 1, 2017, and ineligible for the Essential Plan. Since you were no longer eligible for the Essential Plan, NYSOH disenrolled from your Essential Plan, effective October 31, 2017.

You testified that you did not receive any notice from NYSOH telling you that you needed to provide additional income documentation to confirm your eligibility and that you were unsure as to why you were disenrolled from your Essential Plan. You believe this was a mistake of NYSOH.

According to your NYSOH account, you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable. Therefore, NYSOH properly notified you of an inconsistency in your account and you did not submit additional income documentation before the deadline.

If NYSOH remains unable to verify the inconsistency after the 90-day period ends, then it must determine the applicant's eligibility based on the information available in the data sources, unless the applicant demonstrates that they are unable to provide the required documentation.

Accordingly, your eligibility for the Essential Plan terminated as of October 31, 2017, because you did not submit documentation and did not adequately demonstrate that you could not provide documentation to confirm your income. You were disenrolled for your Essential Plan, effective October 31, 2017.

Therefore, NYSOH's October 3, 2017 eligibility determination and disenrollment notices are correct and must be AFFIRMED.

The second issue under review is whether NYSOH properly determined that you were not eligible for the health coverage through NYSOH as of October 16, 2017.

In order for an individual to receive advance payment of the premium tax credits or to enroll in the Essential Plan, they must meet certain eligibility criteria. One of those criteria is that a person must not be eligible for minimum essential coverage outside of NYSOH. Minimum essential coverage includes most government-sponsored insurance plans including Medicare Part A. According to your testimony, and the letter from the Social Security Administration, dated October 16, 2017, at the time NYSOH issued the October 31, 2017 eligibility determination notice, you were not eligible for and enrolled in Medicare Parts A and B.

Therefore, the October 31, 2017 eligibility determination notice stating that you did not qualify to enroll in health insurance through NYSOH because federal and state data sources showed that you were eligible for Medicare, over the age of 19 years old, were not a caretaker relative of a child, and your income was over the allowable limit for Medicaid, is not supported by the record and must be RESCINDED.

According to your NYSOH account, you expect to file your 2017 taxes with a tax filing status of married filing jointly. You will claim no dependents on that tax return. Therefore, for purposes of these analyses, you are in a two-person household.

The application that was submitted on October 16, 2017, listed a 2017 annual household income of \$23,056.00 in your spouse's employment income. You credibly testified that spouse's income is your household's only source of income.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance as of October 30, 2017, based on a two-person household with a 2017 gross household income of \$23,056.00, for an individual residing in Suffolk County, New York.

It is noted that your household income was finally sufficient as of October 26, 2017, and was validated by NYSOH on October 27, 2017. As such, your enrollment in a health plan, if found eligible, will begin no earlier than December 1, 2017. This is because health plans, including Medicaid Managed Care plans, Essential Plans and qualified health plans that are 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. Had you been able to select a health plan as of October 30, 2017, the earliest your health plan could take effect would be the first day of the second month following October 2017; that is, as of December 1, 2017.

Therefore, NYSOH is directed to assist you in selecting a health plan to be effective December 1, 2017, depending on your eligibility. NYSOH will notify you once this has been completed.

Decision

The October 3, 2017 eligibility determination and disenrollment notices are correct and must be AFFIRMED.

The October 31, 2017 eligibility determination notice is RESCINDED.

Since the October 31, 2017 eligibility determination notice is no longer supported by the record, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance as of October 30, 2017, based on a two-person household with a 2017 gross household income of \$23,056.00, for an individual residing in Suffolk County, New York, and to notify you accordingly.

NYSOH is directed to assist you in selecting a health plan to be effective December 1, 2017, that coincides with your eligibility as redetermined.

Effective Date of this Decision: February 06, 2018

How this Decision Affects Your Eligibility

NYSOH properly found you ineligible for the Essential Plan, effective October 31, 2017.

This Decision does not affect any subsequent eligibility determinations or plan enrollments.

This is not a final determination of your eligibility for financial assistance as of December 2017. Your case is being sent back to NYSOH to redetermine your eligibility based on the information noted above. NYSOH will assist you in enrolling in a health plan as of that date.

If applicable, you will be responsible to pay the monthly insurance premiums directly to the health plan for coverage to resume as of December 1, 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 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 3, 2017 eligibility determination and disenrollment notices are correct and must be AFFIRMED.

The October 31, 2017 eligibility determination notice is RESCINDED.

Since the October 31, 2017 eligibility determination notice is no longer supported by the record, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance as of October 30, 2017, based on a two-person household with a 2017 gross household income of \$23,056.00, for an individual residing in Suffolk County, New York, and to notify you accordingly.

NYSOH is directed to assist you in selecting a health plan to be effective December 1, 2017, coinciding with your eligibility as redetermined.

NYSOH properly found you ineligible for the Essential Plan, effective October 31, 2017.

This Decision does not affect any subsequent eligibility determinations or plan enrollments.

This is not a final determination of your eligibility for financial assistance as of December 2017. Your case is being sent back to NYSOH to redetermine your eligibility based on the information noted above. NYSOH will assist you in enrolling in a health plan as of that date.

If applicable, you will be responsible to pay the monthly insurance premiums directly to the health plan for coverage to resume as of 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.

<u>中文 (Traditional Chinese)</u>

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。我们可以为您免费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.

<u>한국어 (Korean)</u>

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.

(Arabic)العربية

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 5777-355-855-1. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নিখি। 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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शूल्क दोभाषे उपलब्ध गराउन सक्छों।

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. yebetumi ama wo obi a okyere kasa a woka no ase ama wo kwa a wontua hwee.

اردو(Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم5777-355-485-1 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.