



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: [REDACTED]  
Appeal Identification Number: AP000000024475

[REDACTED]  
[REDACTED]  
[REDACTED]

On January 10, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's October 4, 2017 discontinuance and disenrollment notices, November 7, 2017 eligibility determination and enrollment confirmation notices, and November 8, 2017 enrollment confirmation 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.

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## Decision

Decision Date: February 06, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024475

[REDACTED]

## Issues

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

Did NY State of Health (NYSOH) properly determine that you and your child were no longer eligible to enroll in coverage through NYSOH because mail sent to you was returned to NYSOH as undeliverable?

Did NYSOH properly determine that your eligibility for, and enrollment in, your Essential Plan coverage began on December 1, 2017?

Did NYSOH properly determine that your child's enrollment in her Medicaid Managed Care (MMC) plan began on December 1, 2017?

## Procedural History

On September 4, 2017, NYSOH issued a renewal notice stating that it was time to renew your health insurance through NYSOH. The notice stated that you remained eligible for the Essential Plan, effective November 1, 2017, and your child remained eligible for Medicaid, effective November 1, 2017.

On September 17, 2017, NYSOH issued a notice of enrollment stating that you were enrolled in an Essential Plan 2, and your child was enrolled in an MMC plan. Your enrollment began November 1, 2017, and hers began January 1, 2017.

On October 4, 2017, NYSOH issued a discontinuance notice stating that you and your child were no longer eligible to enroll in coverage through NYSOH. This was

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because mail sent to you at the mailing address listed in your NYSOH account was returned to NYSOH as undeliverable.

Also on October 4, 2017, NYSOH issued a disenrollment notice, stating that your enrollment in your Essential Plan, and your child's enrollment in her MMC plan, would end on October 31, 2017.

On November 6, 2017, you updated your NYSOH account. You also updated your residential and mailing address on that day.

On November 7, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan, effective December 1, 2017, and your child was eligible for Medicaid, effective November 1, 2017.

Also on November 7, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Essential Plan beginning December 1, 2017.

On November 8, 2017, NYSOH issued a notice of enrollment confirmation, confirming your child's enrollment in an MMC plan, beginning December 1, 2017.

On November 17, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in your Essential Plan, and your child's enrollment in her MMC plan, insofar as they did not begin November 1, 2017.

On January 10, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open through January 25, 2018 to allow you time to submit supporting documentation.

As of January 26, 2018, 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 support the following findings of fact:

- 1) You and your child were re-enrolled into your Essential Plan and MMC plan, respectively, pursuant to a renewal notice issued on September 4, 2017. These re-enrollments were effective November 1, 2017.
- 2) On September 17, 2017, NYSOH sent you a notice confirming you and your daughter's enrollment in your health care plans.

- 3) On October 2, 2017, the September 17, 2017 enrollment confirmation notice was returned to NYSOH as undeliverable, and uploaded to your NYSOH account on October 3, 2017.
- 4) The returned mail had a sticker on the envelope from the US Post Office stating, "Return to Sender, Not Deliverable As Addressed, Unable to Forward" ([REDACTED]).
- 5) On October 3, 2017, NYSOH redetermined you and your child's eligibility, and found that you were both ineligible for coverage through NYSOH because mail sent to you at the address in your account was returned to NYSOH.
- 6) You testified that you received the September 4, 2017 renewal notice and thought that everything was fine with you and your child's coverage.
- 7) You testified that you moved to a new address on [REDACTED], and that you filed a change of address with the post office on [REDACTED].
- 8) You testified that you did not sign a lease for your new apartment until [REDACTED], so you were still living at your former address in September 2017.
- 9) You testified that you sometimes had problems receiving your mail at your former address, and that you filed a complaint with the post office on [REDACTED]. You testified that the post office told you that they had someone filling in at the end of September 2017.
- 10) Prior to October 2, 2017, no notices sent to you at your former address were returned to NYSOH as undeliverable.
- 11) You testified that you received written confirmation of your change of address from the post office, reflecting the date the change went into effect.
- 12) The record was held open for fifteen days after the hearing so that you could provide your change of address confirmation, but no documentation was submitted to the Appeals Unit by the end of the fifteen days.
- 13) You testified that you found out that your coverage had ended when you went to [REDACTED] in November.
- 14) You testified that you immediately contacted NYSOH and re-enrolled into coverage.

15) Your NYSOH account reflects that you updated your application on November 6, 2017, and selected an Essential Plan for enrollment that day. An MMC plan was selected on your child's behalf of November 7, 2017.

16) You testified that you have outstanding medical bills from [REDACTED] in November 2017.

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).

### 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)).

### 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/downloads/ny-blueprint.pdf>).

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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)).

### Medicaid Effective Dates

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

MMC plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H-6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see 42 USC § 1315; § 364-j(1)(c); 18 NYCRR § 360-10.3(h), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that you and your child were no longer eligible for coverage through NYSOH because mail sent to you at the mailing address in your NYSOH account was returned to NYSOH as undeliverable.

The Essential Plan and Medicaid coverage can both be provided through NYSOH to individuals who meet the financial and non-financial eligibility requirements. One of the non-financial requirements is that an individual seeking coverage, or enrolled in coverage, must be a NY State resident.

On September 17, 2017, NYSOH sent you a notice at the mailing address in your account confirming your enrollment in an Essential Plan, and your child's enrollment in an MMC plan, beginning November 1, 2017. On October 2, 2017, this notice was returned to NYSOH as undeliverable, with a label on the envelope indicating that the post office was unable to deliver the mail and that they were also unable to forward it. As a result, NYSOH was unable to verify that you and your child were NY State residents, and NYSOH issued a notice on October 4, 2017 informing you that you were no longer eligible to enroll in coverage through NYSOH.

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You testified that you sometimes had problems receiving mail at your former address. However, no mail sent to you at that address was ever returned to NYSOH prior to the notice sent on September 17, 2017. Additionally, though you testified that you did not move until [REDACTED] and did not change your address with the post office until [REDACTED], you failed to provide documentation to substantiate your claim that you did not request that mail be forwarded to your new address until [REDACTED]

As you have not provided documentation to confirm that you did neither moved nor updated your address with the post office prior to October 2017, it is concluded that you moved earlier than [REDACTED], and mail was returned to NYSOH by the post office as undeliverable because you were no longer residing at the address when the post office attempted to deliver the September 17, 2017 notice.

Therefore, since mail sent to the mailing address in your NYSOH account was returned to NYSOH as undeliverable, NYSOH properly discontinued coverage for you and your child. The October 4, 2017 discontinuance and disenrollment notices are AFFIRMED.

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

Your NYSOH account reflects that you updated your application and enrollment on November 6, 2017, and you confirmed that this was correct in your testimony.

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 6, 2017, you selected an Essential Plan, so your enrollment properly took effect on the first day of the first month following November; that is, on December 1, 2017.

As such, the November 7, 2017 eligibility determination and enrollment confirmation notices are AFFIRMED.

The third issue under review is whether NYSOH properly determined that your child's enrollment in her MMC plan was effective December 1, 2017.



Your NYSOH account reflects that you selected an MMC plan on your child's behalf on November 7, 2017.

The date on which an MMC 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 will go into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month will go into effect on the first day of the second following month.

On November 7, 2017, you selected an MMC plan, so it properly took effect on the first day of the month following November; that is, on December 1, 2017.

Therefore, the November 8, 2017 enrollment confirmation notice is AFFIRMED.

## **Decision**

The October 4, 2017 discontinuance and disenrollment notices are AFFIRMED.

The November 7, 2017 eligibility determination and enrollment confirmation notices are AFFIRMED.

The November 8, 2017 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** February 06, 2018

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

You were properly disenrolled from your Essential Plan coverage, and your child was properly disenrolled from her MMC plan coverage, effective October 31, 2017 because mail sent to you at the mailing address in your NYSOH account was returned to NYSOH as undeliverable.

Your eligibility for, and re-enrollment in, your Essential Plan coverage began on December 1, 2017.

Your child's re-enrollment in her MMC plan began on 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

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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The October 4, 2017 discontinuance and disenrollment notices are AFFIRMED.

The November 7, 2017 eligibility determination and enrollment confirmation notices are AFFIRMED.

The November 8, 2017 enrollment confirmation notice is AFFIRMED.

You were properly disenrolled from your Essential Plan coverage, and your child was properly disenrolled from her MMC plan coverage, effective October 31, 2017 because mail sent to you at the mailing address in your NYSOH account was returned to NYSOH as undeliverable.

Your eligibility for, and re-enrollment in, your Essential Plan coverage began on December 1, 2017.

Your child's re-enrollment in her MMC plan began on 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)

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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 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 okyer& 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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