



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

Notice of Decision

Decision Date: January 25, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024726

[REDACTED]

[REDACTED]

On January 11, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's July 28, 2017 eligibility determination, October 17, 2017 eligibility determination, and October 18, 2017 plan enrollment 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: January 25, 2018

NY State of Health Account ID: [REDACTED]
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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 July 28, 2017 eligibility determination notice timely?

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

Procedural History

On July 27, 2017, NY State of Health (NYSOH) received your updated application for financial assistance with health insurance.

On July 28, 2017, NYSOH issued an eligibility determination notice stating in part that you were eligible for up to \$298.00 per month in advanced premium tax credit (APTC) and eligible for cost-sharing reductions if you enrolled into a silver level qualified health plan, effective September 1, 2017. The notice further stated in part that you no longer qualified to receive coverage through the Essential Plan, because the income listed on your application was above the allowable maximum income limit for this program.

Also on July 28, 2017, NYSOH issued a plan disenrollment notice confirming your disenrollment from your Essential Plan, effective August 31, 2017.

On August 3, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in your qualified health plan with the application of your monthly APTC, effective September 1, 2017.

On October 16, 2017, NYSOH received your updated application for financial assistance with health insurance.

On October 17, 2017, NYSOH issued an eligibility determination notice stating in part that you were eligible for the Essential Plan with a \$20.00 monthly premium, effective December 1, 2017.

On October 18, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in your Essential Plan with a \$20.00 monthly premium, effective December 1, 2017.

On November 22, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your Essential Plan insofar as it began on December 1, 2017, and not September 1, 2017.

On January 11, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you clarified what relief you were seeking through the appeal. You testified that you were appealing the July 28, 2017 eligibility determination notice insofar as you were found ineligible for the Essential Plan. You further testified that you would like to be found eligible to enroll into the Essential Plan as of September 1, 2017. The Hearing Officer agreed to amend the appeal to include the July 28, 2017 eligibility determination notice. 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 testified that you are only appealing your eligibility for the Essential Plan and enrollment start date.
- 2) The record indicates that you submitted an updated application for financial assistance to NYSOH on July 27, 2017.
- 3) The application that was submitted on July 27, 2017, listed an expected annual household income of \$35,683.00, and the eligibility determination relied upon this information.
- 4) On July 28, 2017, you were found eligible for up to \$298.00 in APTC, effective September 1, 2017 and you enrolled into a qualified health plan.

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- 5) According to your NYSOH account, there were no updates made to your account between July 28, 2017 and October 16, 2017.
- 6) According to your NYSOH account, you submitted an updated application for financial assistance on October 16, 2017. This application indicated that your expected annual income was \$23,858.00.
- 7) According to your NYSOH account, you enrolled in an Essential Plan on October 17, 2017 and your Essential Plan coverage was effective December 1, 2017.
- 8) You testified that after completing your October 16, 2017 application, you asked the NYSOH representative why your eligibility changed. You testified that you were told that it was because your expected annual household income was listed as a different amount in your July 27, 2017 application.
- 9) You testified that your expected annual income had not changed between July 2017 and October 2017.
- 10) You testified that you would like to be found eligible for the Essential Plan as of September 1, 2017, because you feel as though you were erroneously found ineligible for the Essential Plan as of your July 27, 2017 application due to a mistake in income.

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 NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; 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)).

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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/basic-health-program.html>).

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 July 28, 2017 eligibility determination notice was timely.

On July 28, 2017, NYSOH issued an eligibility determination notice, based on your July 27, 2017 application, stating, in part, that you were eligible for up to \$298.00 per month in ATPC, effective September 1, 2017. This notice also stated that you were no longer eligible for the Essential Plan.

Individual applicants and enrollees must request a hearing within 60 days of the date of the eligibility determination notice issued by NYSOH.

For an appeal to have been valid on the issue of eligibility as of the July 28, 2017 eligibility determination notice, an appeal should have been filed by September 26, 2017. The record reflects that the first time you called NYSOH to file a complaint about your eligibility and enrollment from your July 27, 2017 application was on November 20, 2017, which is well beyond the 60-day timeframe.

As such, there has been no timely appeal of the July 28, 2017 eligibility determination notice, and your appeal on that eligibility determination must be **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.

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).

The record indicates that, on October 16, 2017, you submitted an updated application for financial assistance with health insurance through NYSOH and you were found eligible to enroll into an Essential Plan. You submitted a request to enroll into an Essential Plan on October 17, 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.

Since you selected an Essential Plan for enrollment on October 17, 2017, it must take effect on the first day of the second following month after October 2017; that is, on December 1, 2017.

Therefore, the October 17, 2017 eligibility determination and October 18, 2017 plan enrollment notices are AFFIRMED because they properly began your eligibility for and enrollment in the Essential Plan as of December 1, 2017.

Decision

Your appeal of the July 27, 2017 eligibility determination notice is untimely and must be DISMISSED.

The October 17, 2017 eligibility determination notice is AFFIRMED.

The October 18, 2017 plan enrollment notice is AFFIRMED.

Effective Date of this Decision: January 25, 2018

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You were found eligible for and enrolled in a qualified health plan with the application of APTC from September 1, 2017 to November 30, 2017.

The effective date of your Essential Plan is December 1, 2017.

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 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

Your appeal of the July 27, 2017 eligibility determination notice is untimely and must be DISMISSED.

The October 17, 2017 eligibility determination notice is AFFIRMED.

The October 18, 2017 plan enrollment notice is AFFIRMED.

This decision does not change your eligibility.

You were found eligible for and enrolled in a qualified health plan with the application of APTC from September 1, 2017 to November 30, 2017.

The effective date of your Essential 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 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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