



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

Notice of Decision

Decision Date: March 1, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025293

[REDACTED]

[REDACTED]

Dear [REDACTED],

On February 12, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 21, 2017 eligibility determination notice and November 22, 2017 disenrollment 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 NY State of Health 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: March 1, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025293

[REDACTED]

[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 your eligibility for the Essential Plan ended effective December 31, 2017?

Procedural History

On August 18, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective October 1, 2017. The notice further directed you to provide documentation confirming your income before November 15, 2017.

Also on August 18, 2017, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective October 1, 2017.

No income documentation was submitted by November 15, 2017.

On November 21, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost. The notice stated that you were not eligible to enroll in the Essential Plan because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective January 1, 2018.

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On November 22, 2017, NYSOH issued a disenrollment notice stating that your enrollment in the Essential Plan would end as of December 31, 2017, because you were no longer eligible to remain in your plan.

In a letter dated November 23, 2017, your authorized representative appealed the termination of your Essential Plan.

On February 9, 2018, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date.

On February 12, 2018, you had an adjourned telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the hearing. During the hearing, [REDACTED] acted as your authorized representative and assisted you with your testimony. The record was developed during the hearing and held open until February 26, 2018, to allow you to submit supporting documents.

On February 13, 2018, the Appeals Unit received via fax a 30-page document including, a written statement of your expenses and income, copies of your mortgage statement, a copy of your 2016 Federal tax return, a letter from an attorney regarding your separation agreement, and twelve pages of your separation agreement. These documents were collectively marked as Appellant's Exhibit #1 and incorporated into the record.

On February 16, 2018, the Appeals Unit received via fax your complete separation agreement. This document was marked as Appellant's Exhibit #2 and incorporated into the record. The record is now closed.

Findings of Fact

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

- 1) You testified, and your NYSOH account confirms, that you receive all of your notices from NYSOH by electronic mail.
- 2) Your authorized representative testified that you did receive an electronic alert on or around August 18, 2017 advising you that a new notice was in your NYSOH account, which notice advised you that your eligibility was only conditional and that you needed to provide documentation of your income.

- 3) Your NYSOH account indicates that on November 20, 2017 your application was run and you were found no longer eligible for the Essential Plan as of December 31, 2017.
- 4) On December 4, 2017, NYSOH received a letter dated November 23, 2017 from your authorized representative stating that you had the proof of income ready for mailing, but had forgotten to mail the documentation. This submission also included a copy of your and your spouse's joint New York State tax return for 2016, and your 2016 schedule E from your Federal tax return.
- 5) Your authorized representative testified, and your account reflects, that since being disenrolled from your Essential Plan, you have not submitted an application for financial assistance with health insurance.
- 6) Your authorized representative testified that you file your federal tax return as married filing jointly and you do not claim any dependents on your tax return.
- 7) Your authorized representative testified that you and your spouse have a decree of separation which has been in place since 2014.
- 8) You testified that your spouse last lived with you three to four years ago.
- 9) Your application states, and you confirmed, that you reside in Clinton County.
- 10) Your authorized representative testified that you and your spouse jointly own property which has income [REDACTED]. Per your separation agreement, your spouse receives all the income from [REDACTED], from which she pays certain expenses including mortgages on the property. You and your spouse then evenly split the remaining proceeds.
- 11) Your authorized representative testified that your spouse works full time.
- 12) Your authorized representative testified that the income from [REDACTED] is your only source of income.
- 13) Your authorized representative testified that your 2018 income will be similar to your 2016 income. You have not yet filed your tax return for 2017.

- 14) Your application states, and your authorized representative confirmed, that you do not claim any deductions on your tax return.
- 15) Your authorized representative submitted a document indicating that you and your spouse receive gross income from [REDACTED] of \$38,100.00 of which \$18,420.00 is used to pay mortgages, \$2,000.00 per year is used to pay federal taxes, \$432.00 per year is used to pay state taxes, \$2,340.00 per year is used to pay property taxes, and \$1,709.00 is used to pay property insurance, leaving a balance of \$13,199.00 which is paid half to you for a total of \$6,599.50.
- 16) You submitted a copy [REDACTED] and [REDACTED].
- 17) You submitted a copy of your 2016 Federal tax return. This return shows that you filed jointly with your spouse and lists her income from wages as \$33,427.00; net income from rental real estate or royalties of \$24,642.00; and student loan interest deductions of \$449.00.
- 18) You submitted a copy of your separation agreement between yourself and your spouse which was entered into on October 31, 2013. This agreement indicates that the income produced by the property owned jointly by yourself and your spouse will be paid first to your spouse, who will pay all income taxes, insurance, real estate taxes, and real estate mortgages owed, and the remaining balance will be divided equally between yourself and your spouse. This agreement indicates that you and your spouse will decide on a yearly basis whether you will file your taxes jointly or separately.

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 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

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§ 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/downloads/ny-blueprint.pdf>; 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 in order 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 in order 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 redetermine 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)).

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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your eligibility for the Essential Plan ended effective December 31, 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 in order 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 the eligibility determination issued on August 18, 2017, you were advised that you were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income before November 15, 2017.

You testified, and your NYSOH account confirms, that you elected to receive alerts regarding notices from NYSOH electronically. Your authorized representative testified that you did receive an electronic alert on or around August 18, 2017 advising you that a new document was uploaded to your NYSOH, which document advised you that your eligibility was only conditional and that you needed to submit proof of your income.

Therefore, NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available from 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 December 31, 2017 because you did not submit documentation and did not adequately demonstrate that you could not provide documentation to confirm your income.

Therefore, the November 21, 2017 eligibility determination notice and the November 22, 2017 disenrollment notice are **AFFIRMED**.

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Your authorized representative testified, and your NYSOH account confirms, that you have not subsequently submitted an application for financial assistance.

You must submit a new application in order for your eligibility to be redetermined.

Decision

The November 21, 2017 notice of eligibility determination is AFFIRMED.

The November 22, 2017 disenrollment notice is AFFIRMED.

Effective Date of this Decision: March 1, 2018

How this Decision Affects Your Eligibility

NYSOH properly found you ineligible to enroll in the Essential Plan effective December 31, 2017 because you did not provide documentation of your household's income.

You must submit a new application in order for your eligibility to be redetermined.

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:

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).

- 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 November 21, 2017 notice of eligibility determination is AFFIRMED.

The November 22, 2017 disenrollment notice is AFFIRMED.

NYSOH properly found you ineligible to enroll in the Essential Plan effective December 31, 2017 because you did not provide documentation of your household's income.

You must submit a new application in order for your eligibility to be redetermined.

Legal Authority

We are issuing this determination in accordance with 45 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).

A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]

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 okyerE 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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