



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

## Notice of Decision

Decision Date: March 09, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025421

[REDACTED]

Dear [REDACTED],

On February 14, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's August 23, 2017 disenrollment notice and the November 28, 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 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.

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## Decision

Decision Date: March 09, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025421



## Issues

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

Was your appeal of the August 23, 2017 disenrollment notice timely?

Did NYSOH properly determine that the reenrollment of you and your spouse in the Essential Plan became effective no earlier than January 1, 2018?

## Procedural History

On May 19, 2017, NYSOH issued an eligibility determination notice stating you and your spouse were eligible for the Essential Plan, for a limited time, with no monthly premium, effective July 1, 2017. The notice directed you to submit proof of your household income by August 16, 2017 or you and your spouse might lose your insurance or receive less help paying for coverage.

Also on May 19, 2017, NYSOH issued an enrolment notice confirming you and your spouse were enrolled in an Essential Plan, effective July 1, 2017.

On August 23, 2017, NYSOH issued an eligibility determination notice, based on an August 22, 2017 systematic eligibility redetermination, stating you and your spouse were eligible to purchase a qualified health plan at full cost, effective October 1, 2017. The notice indicated that you and your spouse were not eligible for financial assistance, because NYSOH had not received the income documentation needed to verify the information listed in your application by the due date.

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Also on August 23, 2017, NYSOH issued a disenrollment notice stating the enrollment of you and your spouse in the Essential Plan would end on September 30, 2017, because you were no longer eligible to enroll in the plan.

On November 27, 2017, NYSOH received an updated application submitted on behalf of you and your spouse.

On November 28, 2017, NYSOH issued an eligibility determination notice stating you and your spouse were eligible for the Essential Plan with a \$20.00 monthly premium, effective January 1, 2018.

Also on November 28, 2017, NYSOH issued an enrollment notice, based on your November 27, 2017 plan selection, confirming you and your spouse were enrolled in an Essential Plan, effective January 1, 2018.

On December 6, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as the reenrollment of you and your spouse in the Essential Plan was not effective earlier than January 1, 2018.

On February 14, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed thereafter.

## **Findings of Fact**

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

- 1) On May 18, 2017, NYSOH received an updated application submitted on behalf of you and your spouse.
- 2) You testified that a certified application counselor (CAC) from your health plan called you on the phone to update your application and the CAC submitted the application online to NYSOH on your behalf.
- 3) Your account confirms that your "address details [were] verified" in the updated application.
- 4) According to your account, NYSOH was unable to verify the income information listed in your application. You and your spouse were determined conditionally eligible for the Essential Plan pending receipt of documentation to confirm your household income.
- 5) The eligibility determination notice issued by NYSOH on May 19, 2017 indicated that the eligibility of you and your spouse was only

conditional and directed you to submit proof of your household income by August 16, 2017.

- 6) The May 19, 2017 eligibility determination notice was addressed to [REDACTED]
- 7) You testified and your NYSOH account confirms that you receive your notices from NYSOH by regular mail.
- 8) You testified that you did not receive the May 19, 2017 eligibility determination notice and you did not know you had to submit proof of your income to confirm the eligibility of you and your spouse.
- 9) There is no record that NYSOH has ever received any documentation of your household income.
- 10) On August 22, 2017, NYSOH redetermined the eligibility of you and your spouse and found you ineligible for financial assistance, because you failed to submit documentation of your household income by the due date.
- 11) The August 23, 2017 eligibly determination and disenrollment notice were addressed to [REDACTED]  
[REDACTED] You testified that you did not receive those notices.
- 12) You and your spouse were disenrolled from your Essential Plan, effective September 30, 2017.
- 13) According to your account, on November 27, 2017 an updated application was submitted on behalf of you and your spouse and you were both determined eligible for the Essential Plan, effective January 1, 2018.
- 14) According to your account, an Essential Plan enrollment request was submitted on behalf of you and your spouse on November 27, 2017. Coverage through that plan became effective on January 1, 2018.
- 15) You testified you are seeking to backdate the subsequent Essential Plan enrollment of you and your spouse to November ,1 2017, because you have outstanding medical bills from that month.
- 16) According to your account, you contacted NYSOH on December 6, 2017 to appeal the effective date of the subsequent enrollment of you and your spouse.

- 17) You testified that your correct mailing address is [REDACTED]. You testified that has been your mailing address for two and a half years. You requested this decision be mailed to that address.
- 18) According to your account, your mailing address was updated sometime between June 2016 and May 2017 to [REDACTED].
- 19) You testified you have no knowledge as to why your address was changed.
- 20) According to your account, all 11 notices issued to you by NYSOH since May 3, 2017 have been addressed to [REDACTED].
- 21) There is no record of any notice issued to you by NYSOH being returned as undeliverable.
- 22) The Notice of Telephone Hearing issued to you by NYSOH on January 23, 2017 was addressed to [REDACTED]. You testified that you received that notice.
- 23) At the hearing, you were directed to contact NYSOH to update your mailing address. As of the date of this decision, there is no record of any updates made to the mailing address listed on your account.

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 [www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf](http://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 August 23, 2017 notice of eligibility determination was timely.

On May 19, 2017, NYSOH issued an eligibility determination notice indicating you and your spouse were conditionally eligible to enroll in the Essential Plan with no monthly premium, effective July 1, 2017. That notice directed you to submit proof of your household income by August 16, 2017 or you and your spouse might lose your insurance or receive less help paying for coverage. You and your spouse enrolled in an Essential Plan, effective July 1, 2017.

There is no record that NYSOH has ever received any documentation of your household income. Therefore, on August 22, 2017, NYSOH systematically redetermined the eligibility of you and your spouse and found you ineligible for financial assistance, because you failed to submit documentation of your household income by the due date. You and your spouse were disenrolled from your Essential Plan, effective September 30, 2017. You appealed insofar as you and your spouse were not enrolled in an Essential Plan for the months of November and December 2017.

Pursuant to the above cited regulations, individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of the September 30, 2017 disenrollment of you and your spouse from your Essential Plan, as stated in the

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August 23, 2017 disenrollment notice, an appeal should have been filed by October 22, 2017. The record reflects that the appeal in this matter was not filed until December 6, 2017, after the 60-day timeframe in which to appeal the August 23, 2017 disenrollment notice had passed.

Although you testified that you did not receive the May 19, 2017 eligibility determination notice directing you to submit proof of your income or the August 23, 2017 eligibility determination or disenrollment notices advising you that your coverage would end on September 30, 2017, there is no record of any notice issued to you by NYSOH being returned as undeliverable. Furthermore, you testified that you received the January 23, 2017 Notice of Telephone Hearing issued to the same address listed on the aforementioned notices, and there is no indication you advised NYSOH to correct the address.

Additionally, your account confirms that your CAC verified your mailing address when updating the application on behalf of you and your spouse on May 18, 2017. Thus, there is insufficient evidence in the record to establish that NYSOH failed to issue you proper notice of the end date of your coverage, or that you did not have the opportunity to correct any error in your address. Accordingly, there is insufficient evidence in the record to justify tolling the regulatory time frame in which to appeal the September 30, 2017 end date of your coverage.

Since there has been no timely appeal of the August 23, 2017 disenrollment notice, your appeal of the September 30, 2017 disenrollment of you and your spouse must be **DISMISSED**.

The second issue under review is whether NYSOH properly determined the reenrollment of you and your spouse in the Essential Plan became effective no earlier than January 1, 2018.

According to your account, an Essential Plan enrollment request was submitted on behalf of you and your spouse on November 27, 2017. That enrollment became effective on January 1, 2018. You appealed insofar as the subsequent Essential Plan enrollment of you and your spouse was not effective November 1, 2017.

In accordance with the above cited regulations, 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.

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Since the evidence establishes that you did not contact NYSOH to reenroll you and your spouse into an Essential Plan until November 27, 2017, after the fifteenth day of the month, that enrollment could not become effective until the first day of the second following month; that is, on January 1, 2018.

Therefore, the November 28, 2017 enrollment confirmation notice stating the reenrollment of you and your spouse in your Essential Plan was effective January 1, 2018, was correct and is AFFIRMED.

## **Decision**

Your appeal of the August 23, 2017 disenrollment notice is untimely and is DISMISSED.

The November 28, 2017 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** March 09, 2018

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

The Appeals Unit will not review the August 23, 2017 disenrollment notice.

The reenrollment of you and your spouse in your Essential Plan became effective on January 1, 2018.

## **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 a portion of 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

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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 August 23, 2017 disenrollment notice is untimely and is **DISMISSED**.

The November 28, 2017 enrollment confirmation notice is **AFFIRMED**.

The Appeals Unit will not review the August 23, 2017 disenrollment notice.

The reenrollment of you and your spouse in your Essential Plan became effective on January 1, 2018.

## **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 मददत चाहन्छि भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोलने 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 srɛ wo, frɛ 1-855-355-5777. yɛbɛtumi ama wo obi a okyerɛ 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.