



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

Notice of Decision

Decision Date: March 5, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025710

[REDACTED]

Dear [REDACTED],

On February 27, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 13, 2017 enrollment confirmation notice, December 28, 2017 eligibility determination, and December 28, 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 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: March 5, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025710



Issues

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

Did NY State of Health properly determine that your enrollment in an Essential Plan was effective January 1, 2018?

Did NY State of Health properly determine that you were no longer qualified to enroll in health insurance through NYSOH and terminate your Essential Plan coverage, effective January 1, 2018?

Procedural History

On November 17, 2017, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your November 16, 2017 application, stating that you were eligible to enroll in the Essential Plan, effective January 1, 2018.

On December 13, 2017, NYSOH issued a notice of enrollment, based on your plan selection on December 12, 2017, stating that you were enrolled in an Essential Plan, and that your plan would start January 1, 2018.

On December 14, 2017, NYSOH issued a notice confirming the appeal you filed on December 13, 2017. On December 26, 2017, NYSOH marked this notice as being returned by the United States Postal Service.

Also on December 13, 2017 you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential Plan insofar as it did not begin December 1, 2017.

On December 27, 2017, NYSOH redetermined your eligibility for financial assistance.

On December 28, 2017, NYSOH issued a notice of eligibility determination stating that you were no longer eligible for health insurance through NYSOH, effective January 1, 2018. This was because mail sent to you by NYSOH was returned as undeliverable. On January 5, 2018, NYSOH marked this notice as being returned by the United States Postal Service.

Also on December 28, 2017, NYSOH issued a disenrollment notice stating that your enrollment with your Essential Plan would end on January 1, 2018. This was because you were no longer eligible to enroll in health insurance through NYSOH. On January 5, 2018, NYSOH marked this notice as being returned by the United States Postal Service.

On January 9, 2018, you updated your application for health insurance.

On January 10, 2018, NYSOH issued a notice of eligibility determination stating that you were eligible for the Essential Plan, effective February 1, 2018.

Also on January 10, 2018, NYSOH issued a notice of enrollment, stating that you were reenrolled in your Essential Plan and that your plan would start February 1, 2018.

On February 27, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) You testified that you submitted an application on-line at some time in November 2017.
- 2) During the hearing, you gave permission for the Hearing Officer to listen to recordings of phone calls you had with NYSOH.
- 3) On November 16, 2017, your spouse placed a phone call to NYSOH. A review of the recording of that phone call reveals that your spouse was calling to create an account. Your spouse completed an application with

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an NYSOH representative over the phone. Your spouse did not select an Essential Plan for enrollment that day.

- 4) Your NYSOH account reflects that the first application submitted on your account was submitted on November 16, 2017.
- 5) You testified that you had previously had COBRA, but that this ended on December 7, 2017.
- 6) On December 12, 2017, your spouse placed a phone call to NYSOH. A review of the recording of that phone call reveals that your spouse selected an Essential Plan for enrollment for himself and for you at that time.
- 7) You testified that you are only appealing with regard to your coverage, not your spouse's, and that you want your Essential Plan to begin on December 1, 2017.
- 8) You testified that you live at [REDACTED] and have lived at that address for approximately 40 years.
- 9) You testified that you have lived in New York State your entire life.
- 10) You testified that you were not incarcerated in 2017 and have not been incarcerated in 2018.
- 11) You testified that after your COBRA coverage ended on December 7, 2017, you have had no other coverage outside of NYSOH.
- 12) All of the notices sent to you by NYSOH were sent via regular mail to [REDACTED]
- 13) Only the December 14, 2017 appeal notice, December 28, 2017 eligibility determination notice, and December 28, 2017 disenrollment notice were returned to NYSOH by the United States Postal Service.
- 14) You testified that you were out of town for approximately [REDACTED] in late December or early January. You testified that you do not believe you had your mail forwarded during this time.
- 15) NYSOH has supplied no additional information as to why the December 14, 2017 appeal notice, December 28, 2017 eligibility determination notice, and December 28, 2017 disenrollment notice were returned.

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

Applicable Law and Regulations

Essential Plan Eligibility

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).

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>).

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)).

State Residency Requirement

To be eligible for enrollment in the Essential Plan, an applicant must be a resident of New York State (New York's Basic Health Plan Blueprint, p. 15, as approved January 2017; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>, 45 CFR § 155.305(a)(3), (f)(1)(ii)(A)).

For an individual who is aged 21 or older, not living in an institution, and able to indicate intent, that individual is deemed to be a resident of the Exchange service area in which or she lives and either a) intends to reside, even without a fixed

address, or b) has entered with a job commitment or is seeking employment. (45 CFR § 155.305(a)(3)(i)).

Legal Analysis

The first issue is whether NYSOH properly determined that your enrollment in the Essential Plan was effective January 1, 2018.

The record indicates, that you submitted your NYSOH application on November 16, 2017. As a result, you were found eligible for the Essential Plan as of January 1, 2018. On December 12, 2017 you selected an Essential Plan for enrollment.

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 December 12, 2017, you selected an Essential Plan, so your enrollment properly took effect on the first day of the first month following December 2017; that is, on January 1, 2018.

Therefore, the December 13, 2017 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective January 1, 2018, is correct and must be AFFIRMED.

The second issue is whether NYSOH properly determine that you were no longer qualified to enroll in health insurance through NYSOH and terminated your Essential Plan coverage, effective January 1, 2018.

On December 14, 2017, NYSOH issued a notice confirming the appeal you filed on December 13, 2017. This notice was mailed to [REDACTED]. On December 26, 2017, NYSOH marked this notice as being returned by the United States Postal Service.

As a result, NYSOH redetermined your eligibility and issued a notice stating that you were no longer eligible for health insurance through NYSOH, effective January 1, 2018. This was because mail sent to you by NYSOH had been returned by the United States Postal Service. NYSOH also issued a disenrollment notice stating that you were disenrolled from your Essential Plan, effective January 1, 2018.

One of the conditions of eligibility for the Essential Plan is for the applicant to be a resident of New York State. Under the Essential Plan, an individual is deemed to be a resident if they intend to reside in the state, even without a fixed address, or has entered with a job commitment or is seeking employment.

You testified that you reside at [REDACTED] and have lived at this address for approximately 40 years.

The record reflects that all the notices NYSOH has mailed to you have been sent to [REDACTED]. Of these notices only the December 14, 2017 appeal notice, December 28, 2017 eligibility determination notice, and December 28, 2017 disenrollment notice were returned.

You testified that there was a [REDACTED] period of time around late December 2017 and January 2018 that you were out of town.

NYSOH has provided no additional information regarding why the December 14, 2017 appeal notice, December 28, 2017 eligibility determination notice, and December 28, 2017 disenrollment notice were returned as undeliverable.

Therefore, there is sufficient evidence in the record to conclude that you have continuously retained New York State residency throughout the time period in question. There is no indication in the record that there was any other basis for NYSOH to find you ineligible for the Essential Plan at the time of the December 27, 2017 eligibility redetermination.

Therefore, the December 28, 2017 eligibility determination notice and the December 28, 2017 disenrollment notice are RESCINDED.

Your case is RETURNED to NYSOH to reinstate you into your Essential Plan as of January 1, 2018.

Decision

The December 13, 2017 enrollment confirmation notice is AFFIRMED.

The December 28, 2017 eligibility determination notice is RESCINDED.

The December 28, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate you into your Essential Plan as of January 1, 2018.

Effective Date of this Decision: March 5, 2018

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).

How this Decision Affects Your Eligibility

The effective date of your Essential Health Plan is January 1, 2018.

NYSOH incorrectly terminated your enrollment in your Essential Plan as of January 1, 2018.

Your case is being sent back to NYSOH to reinstate you into your Essential Plan as of January 1, 2018.

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

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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):

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- 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 December 13, 2017 enrollment confirmation notice is **AFFIRMED**.

The effective date of your Essential Health Plan is January 1, 2018.

The December 28, 2017 eligibility determination notice is **RESCINDED**.

The December 28, 2017 disenrollment notice is **RESCINDED**.

The effective date of your Essential Health Plan is January 1, 2018.

NYSOH incorrectly terminated your enrollment in your Essential Plan as of January 1, 2018.

Your case is being sent back to NYSOH to reinstate you into your Essential Plan as of January 1, 2018.

Your case is **RETURNED** to NYSOH to reinstate you into your Essential Plan as of January 1, 2018.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

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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 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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