



STATE OF NEW YORK
DEPARTMENT OF HEALTH
PO Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: March 06, 2018

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000025902

[REDACTED]

Dear [REDACTED]

On February 22, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 29, 2017 eligibility determination and cancellation notices, and the December 16, 2017 eligibility determination 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
PO 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(b).

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 06, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025902

[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 you were no longer eligible to enroll in the Essential Plan effective January 1, 2018?

Procedural History

On November 28, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$208.00 per month in advance payments of the premium tax credit (APTC), effective January 1, 2017.

Also on November 28, 2016, NYSOH issued an enrollment notice confirming your enrollment in a qualified health plan (QHP) as of November 27, 2016, with such coverage beginning January 1, 2107.

On October 28, 2017, NYSOH issued a renewal and eligibility determination notice stating that based on information about you from state and federal data sources obtained as of October 7, 2017, you were found eligible for the Essential Plan, effective January 1, 2018.

On November 17, 2017, NYSOH issued an enrollment notice confirming your enrollment in an Essential Plan as of November 16, 2017. The notice stated that your coverage under this plan would begin effective January 1, 2018.

On November 29, 2017, NYSOH issued an eligibility redetermination notice stating that you no longer qualified to enroll through NYSOH because "they sent

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you...information, including notices about your eligibility and coverage, by U.S. mail to the mailing address provided in your account. However, this information was returned to the Marketplace as undeliverable. Please update your mailing address so you can remain eligible for health coverage through NYSOH.” This eligibility determination was effective December 1, 2017.

On November 29, 2017, NYSOH issued a disenrollment notice stating that your Essential Plan enrollment was cancelled effective January 1, 2018.

On December 15, 2017, NYSOH received an update to your application for financial assistance for health insurance. In response to this application, NYSOH prepared a preliminary eligibility determination stating that you were eligible for an APTC of up to \$219.00 per month, effective January 1, 2018.

On December 15, 2017, you spoke with NYSOH’s Account Review Unit and appealed being disenrolled from the Essential Plan for returned mail to NYSOH, and were seeking a reinstatement of your coverage under that plan.

On December 16, 2017, NYSOH issued a notice confirming request to update your mailing address in your account.

Also on December 16, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for an APTC of up to \$219.00 per month, effective January 1, 2018.

On February 22, 2018, you had a telephone hearing with a Hearing Officer from NYSOH’s Appeal Unit. 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 were found eligible for the Essential Plan beginning January 1, 2018 based on information obtained by NYSOH from state and federal sources as of October 7, 2017.
- 2) You were enrolled in an Essential Plan as of November 16, 2017, with such coverage to begin on January 1, 2018.
- 3) The eligibility and renewal notice issued to you on October 28, 2017 was returned to NYSOH as undeliverable on November 27, 2017. The “Events” tab in your NYSOH account was updated accordingly, and your address was marked as invalid on November 28, 2017.

- 4) On November 28, 2017, NYSOH redetermined your eligibility for financial assistance with health insurance.
- 5) Your Essential Plan enrollment was cancelled effective January 1, 2018.
- 6) You testified that you moved from [REDACTED] during the month of July 2017. You further testified that you believe that you provided this update in address to NYSOH at that time.
- 7) Your NYSOH account reflects that you updated your application on December 15, 2017, and provided your updated mailing address at that time.
- 8) Because of the information contained in the December 15, 2017 application, you were found eligible for an APTC of up to \$219.00 per month, effective January 1, 2018.
- 9) You testified that you were seeking a reinstatement of your Essential Plan coverage as of January 1, 2018 because, among other reasons, your cost of living is high in your locality and makes purchase a QHP, even after applying the APTC, unaffordable.

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: Renewal

New York State has elected to adopt the Medicaid policy regarding continuous enrollment throughout the year (42 CFR § 600.320(d); New York's Basic Health

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Plan Blueprint, pp. 8 and 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>).

This means that an individual may apply and enroll for coverage at any point in time throughout the year, including outside the open enrollment period and without needing a special enrollment period (NY Social Services Law § 369-gg(4)(d)).

New York State has also elected to redetermine Essential Plan enrollees every 12 months from the effective date of eligibility as long as enrollees are under age 65, are not enrolled in minimum essential coverage, and remain state residents. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12-month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or changes in circumstances (42 CFR § 600.340(f); NY Social Services Law § 369-gg(3) and (4)(d)). Enrollees are required to report changes in circumstances within 30 days, which NYSOH will assess and act upon accordingly (New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were no longer eligible to enroll in the Essential Plan effective January 1, 2018.

Your account confirms you enrolled in an Essential Plan, effective January 1, 2018, but that enrollment was subsequently terminated after the October 28, 2017 renewal and eligibility notice issued to the mailing address listed on your account was returned to NYSOH by the U.S. Postal Service as undeliverable on November 27, 2017.

Pursuant to the regulations, only NY State residents are eligible to enroll in the Essential Plan. According to your account, NYSOH initially determined you were no longer eligible to enroll in the Essential Plan, effective January 1, 2018, after your mailing address was marked invalid, because your status as a state resident could not be confirmed.

You testified that you moved from [REDACTED] during the month July 2017.

You further testified that you believe that you provided this updated mailing address to NYSOH at that time. On October 28, 2017, NYSOH issued a renewal and eligibility determination notice stating that you were eligible for the Essential Plan, effective January 1, 2018. This notice was returned to NYSOH by the post

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office as undeliverable mail. As a result, NYSOH issued an eligibility determination notice on November 29, 2017, stating that you were no longer eligible for coverage through NYSOH. Your Essential Plan coverage was cancelled effective January 1, 2018.

NYSOH account reflects that you updated your application on December 15, 2017, and provided your updated mailing address at that time. You credibly testified that you have maintained NY State residency for at least a 5-year period. The record does not contain any other instances of notices issued by NYSOH being returned as undeliverable.

Based on your credible testimony, the NYSOH Appeals Unit's findings above, and your NYSOH account records, we find that NYSOH erroneously discontinued your Essential Plan coverage effective January 1, 2018.

Accordingly, we find there is sufficient evidence that the November 29, 2017 eligibility determination and cancellation notices are not supported by the record, and are RESCINDED.

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

New York State has elected to redetermine Essential Plan enrollees only every 12 months from the effective date of eligibility, as long as enrollees are under age 65, are not enrolled in minimum essential coverage, remain state residents. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12-month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid Social Security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or changes in circumstances.

Since you were found eligible for and enrolled in the Essential Plan as of January 1, 2018, your coverage should have continued for 12 months; that is, until December 31, 2018, barring any of the disqualifying events stated above.

In the present case, NYSOH issued an eligibility determination notice stating that you were no longer eligible for financial assistance because you provided an updated application which found you eligible for an ATPC of up to \$219.00 per month. However, you testified that you would not have updated your application for financial assistance with health insurance had you not been disenrolled from the Essential Plan. Therefore, the record does not contain one of the disqualifying events that would have ended your coverage in the Essential Plan prior to the end of the 12-month period.

Accordingly, we find there is sufficient evidence that your December 16, 2017 eligibility determination is, again, no longer supported by the now developed record and should be RESCINDED.

Decision

The November 29, 2017 eligibility determination and cancellation notices are RESCINDED.

The December 16, 2017 eligibility determination is RESCINDED.

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

Effective Date of this Decision: March 06, 2018

How this Decision Affects Your Eligibility

You were eligible for the Essential Plan, effective January 1, 2018.

You were not eligible for an APTC of up to \$219.00 per month.

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

You are responsible for any premium amounts due regarding the reinstatement of your Essential Plan coverage.

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.

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).

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):

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- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
NY State of Health Appeals
PO Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

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Summary

The November 29, 2017 eligibility determination and cancellation notices are **RESCINDED**.

The December 16, 2017 eligibility determination is **RESCINDED**.

You were eligible for the Essential Plan, effective January 1, 2018.

You were not eligible for an APTC of up to \$219.00 per month.

You are being sent back to NYSOH to reinstate your Essential Plan coverage as of January 1, 2018.

You are responsible for any premium amounts due regarding the reinstatement of your Essential Plan coverage.

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، يرجى الاتصال بالرقم 1-855-355-5777. يمكننا 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 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 איך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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