



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

Notice of Decision

Decision Date: March 12, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026042

[REDACTED]

Dear [REDACTED],

On February 21, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 9, 2017 eligibility determination and disenrollment 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: March 12, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026042

[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, and enrollment in, the Essential Plan ended as of November 30, 2017?

Procedural History

On November 21, 2016, you updated your application for health insurance for 2017.

On November 23, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan, effective January 1, 2017.

Also on November 23, 2016, NYSOH issued a plan enrollment notice stating that you were enrolled in an Essential Plan with a \$20.00 monthly premium, effective January 1, 2017.

On November 8, 2017, an updated application was submitted by NYSOH.

On November 9, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$295.00 per month in advance premium tax credit as well as cost-sharing reductions, effective December 1, 2017. That notice also stated that you no longer qualified for the Essential Plan as of November 30, 2017.

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Also on November 9, 2017, NYOSH issued a disenrollment notice stating that your enrollment in your Essential Plan ended on November 30, 2017.

On December 7, 2017, you updated your application for financial assistance with health insurance.

On December 8, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$353.00 per month in advance premium tax credit as well as cost-sharing reductions, effective January 1, 2018.

On December 12, 2017, NYSOH issued a plan enrollment notice, based on your plan selection on December 11, 2017, confirming your enrollment in a silver level qualified health plan with the application of your tax credit of \$353.00 as of January 1, 2018.

On December 19, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you were disenrolled from the Essential Plan for the month of December 2017.

On February 21, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you gave permission for the Hearing Officer to listen to recordings of telephone calls you had with NYSOH. The record was developed during the hearing and closed after the telephone recording was reviewed.

Findings of Fact

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

- 1) You testified that you are appealing your disenrollment from your Essential Plan on November 30, 2017.
- 2) According to your NYSOH account, you were determined eligible for the Essential Plan on November 23, 2016, with an effective date of January 1, 2017.
- 3) You testified that you contacted NYSOH on November 8, 2017, by telephone to renew your health insurance for 2018 because you knew it was open enrollment.
- 4) You testified that during that telephone conversation, the NYSOH representative told you that you could not renew your health insurance at that time because it was too early for you to do so. You testified the NYSOH representative instructed you to contact NYSOH between November 16, 2017 and December 15, 2017 to renew your health insurance.

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- 5) You testified that you did not know any application on November 8, 2017, had been submitted because you were told to call back and apply at a later date to renew your health insurance.
- 6) The NYSOH Appeals Unit reviewed the recording of the November 8, 2017 telephone call between you and a NYSOH representative.
 - a. During that call, the NYSOH representative stated that there were two renewal dates on your account and that she was not sure if you could renew your health insurance.
 - b. The NYSOH representative began an application for you to renew your health insurance and asked you to select a plan.
 - c. The NYSOH representative then put you on hold. When she returned, she told you that it was too early to renew your application, and instructed you to call back anytime between November 16, 2017 and December 15, 2017 to renew your insurance for 2018.
- 7) According to your NYSOH account and your testimony, you contacted NYSOH on December 7, 2017 to renew your health insurance for 2018.
- 8) You testified that you discovered you did not have coverage under the Essential Plan in late December when you went to a pharmacy to pick up medication.
- 9) You testified that you have bills for the month of December 2017, that you want covered.

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

Applicable Law and Regulations

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>).

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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)).

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

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/basic-health-program.html>).

Legal Analysis

The issue under review is whether NYSOH properly determined that your eligibility for, and enrollment in, the Essential Plan ended as of November 30, 2017.

You were eligible for the Essential Plan with a \$20.00 monthly premium and enrolled into a plan as of January 1, 2017.

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, 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.

Since you were found eligible for and enrolled in the Essential Plan as of January 1, 2017, your coverage should have continued for 12 months; that is, until December 31, 2017, barring any of the disqualifying events stated above.

In the present case, the record does not contain any of the disqualifying events that would have ended your coverage in the Essential Plan prior to the end of the 12-month period.

Additionally, it is reasonable to conclude that the November 8, 2017 application was submitted in error. The audio recording reflects that there was a defect in your account that indicated two renewal dates. Due to this defect, when you called to renew your health insurance on November 8, 2017, the NYSOH representative was unable to determine whether you could renew your health insurance that day. You testified, and the audio recording corroborates, that the NYSOH representative began to assist you with renewing your application, but she stopped this process, told you it was too early for you to renew your health insurance for 2018, and asked you to call back between November 16, 2017 and December 16, 2017 to renew your application. Therefore, based on the credible evidence of record, it is reasonable to conclude that the November 8, 2017 application was submitted in error.

As NYSOH improperly redetermined your eligibility on November 8, 2017, prior to the expiration of the 12-month period of eligibility, the November 9, 2017 eligibility determination notice and November 9, 2017 disenrollment notice are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your Essential Plan eligibility and re-enroll you in your Essential Plan as of December 1, 2017.

This Decision does not affect any subsequent determinations or your eligibility and enrollment for 2018.

Decision

The November 9, 2017 eligibility determination notice is **RESCINDED**.

The November 9, 2017 disenrollment notice is **RESCINDED**.

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).

Your case is RETURNED to NYSOH to reinstate your Essential Plan eligibility and re-enroll you in your Essential Plan, effective December 1, 2017, and to notify you accordingly.

This Decision does not affect any subsequent determinations or your eligibility and enrollment for 2018.

Effective Date of this Decision: March 12, 2018

How this Decision Affects Your Eligibility

You should not have been disenrolled from your Essential Plan as of November 30, 2017.

Your case is being sent back to NYSOH to reinstate your Essential Plan eligibility and re-enroll you in your Essential Plan as of December 1, 2017. NYSOH will notify once this is done.

Your eligibility and enrollment beginning January 1, 2018 remains the same.

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

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).

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 9, 2017 eligibility determination notice is **RESCINDED**.

The November 9, 2017 disenrollment notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your Essential Plan eligibility and re-enroll you in your Essential Plan, effective December 1, 2017, and to notify you accordingly.

This Decision does not affect any subsequent determinations or your eligibility and enrollment for 2018.

You should not have been disenrolled from your Essential Plan as of November 30, 2017.

Your case is being sent back to NYSOH to reinstate your Essential Plan eligibility and re-enroll you in your Essential Plan as of December 1, 2017. NYSOH will notify once this is done.

Your eligibility and enrollment beginning January 1, 2018 remains the same.

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).

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 1-855-355-5777번으로 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।

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).

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. yEbEtumi 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 איר געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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