



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

Notice of Decision

Decision Date: March 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026601

[REDACTED]

Dear [REDACTED],

On March 6, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's July 15, 2017 discontinuance and disenrollment notices, and December 12, 2017 eligibility determination and enrollment confirmation 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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Decision

Decision Date: March 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026601



Issues

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

Did NY State of Health (NYSOH) properly determine that you were no longer eligible to enroll in coverage through NYSOH because mail sent to you was returned to NYSOH as undeliverable?

Did NYSOH properly determine that your eligibility for, and enrollment in, your Essential Plan coverage began on December 1, 2017?

Procedural History

On June 16, 2017, an application for financial assistance with health insurance through NYSOH was filed on your behalf.

On June 18, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for the Essential Plan for a limited time with no monthly premiums, effective June 1, 2017. The notice further directed you to submit documentation of your income by September 14, 2017.

Also on June 18, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Essential Plan, beginning June 1, 2017.

On June 19, 2017, your application was updated again.

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On June 20, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for the Essential Plan with no monthly premium for a limited time, effective July 1, 2017.

On June 21 and 22, 2017, NYSOH's system redetermined your eligibility.

On June 22 and 23, 2017, NYSOH issued notices of eligibility determination stating that you were eligible for the Essential Plan with no monthly premium for a limited time, effective July 1, 2017.

On July 15, 2017, NYSOH issued a discontinuance notice stating that you were no longer eligible to enroll in coverage through NYSOH, effective August 1, 2017. This was because mail sent to you at the mailing address listed in your NYSOH account was returned to NYSOH as undeliverable.

Also on July 15, 2017, NYSOH issued a disenrollment notice, stating that your enrollment in your Essential Plan, would end on July 31, 2017.

On September 18, 2017, you faxed immigration and income documentation to NYSOH, which was uploaded to your NYSOH account on September 19, 2017.

On December 11, 2017, your NYSOH account was updated on your behalf, as was your residential and mailing address.

On December 12, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan with no monthly premium for a limited time, effective December 1, 2017.

Also on December 12, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Essential Plan beginning December 1, 2017.

On January 2, 2018, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in your Essential Plan, insofar as it did not begin August 1, 2017.

On March 6, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, your Certified Application Counselor (CAC), [REDACTED], appeared and provided sworn testimony. 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 were enrolled into an Essential Plan for a limited time, effective June 1, 2017.
- 2) Your NYSOH account reflects that your application for health insurance coverage was completed by someone with the username "[REDACTED]."
- 3) You testified that you went to the emergency room on [REDACTED]
- 4) You testified that a counselor visited you in your hospital room and took information from you so that an application for health insurance could be filed.
- 5) You testified that you do not know whether the counselor completed your NYSOH application online or on the phone, as you were not with her when she filed the application.
- 6) Your CAC testified that she assisted you with your application in June 2017, and that she entered your information online to complete the application.
- 7) On July 10, 2017, the June 23, 2017 eligibility determination notice was returned to NYSOH as undeliverable, and uploaded to your NYSOH account on July 14, 2017. The notice was sent to "[REDACTED]" [REDACTED]
- 8) The returned mail had a sticker on the envelope from the US Post Office stating, "Return to Sender, Not Deliverable As Addressed, Unable to Forward" (Document [REDACTED])
- 9) On July 14, 2017, NYSOH redetermined your eligibility, and found that you were ineligible for coverage through NYSOH because mail sent to you at the address in your account was returned to NYSOH.
- 10) You testified that you live at "[REDACTED]" and that you have never lived at [REDACTED] and have never told anyone that you lived in [REDACTED]
- 11) You testified that, after you enrolled in coverage, you began receiving bills for doctor's appointments.

- 12) You testified that your doctor's office would repeatedly contact you and ask for your insurance identification number, which you would provide to them, but then you would receive the bills again.
- 13) You testified that no one from your doctor's office indicated that you did not have active coverage, and that you would just periodically get calls from them asking you to again provide your insurance information.
- 14) You testified that, after this went on for a few months, you asked someone at your doctor's billing office to look into the issue further, and this person was able to find out that your coverage had ended.
- 15) You testified that you called your CAC, and she advised you to contact NYSOH.
- 16) Your CAC testified that, when she heard from you that your coverage was cancelled, she went into your NYSOH account and saw that there was a problem with the address, in that mail sent to you was returned to NYSOH.
- 17) You and your CAC testified that you then updated the application and address, and your NYSOH account reflects that these updates were completed on December 11, 2017.
- 18) Your NYSOH account reflects that you were reenrolled into Essential Plan coverage, effective December 1, 2017.
- 19) Your CAC testified that, when she completed your initial application in June 2017, she verified the information she had with what was in the hospital's system.
- 20) Your CAC testified that, when she logged into your account in December 2017, she saw that your account listed the incorrect apartment number of [REDACTED], instead of [REDACTED].
- 21) Your CAC testified that it is possible that she mistyped the apartment number when she entered it into the NYSOH application.
- 22) You testified that you did not know that there was anything wrong with your address in NYSOH's system because you received notices from NYSOH in June 2017, and never noticed that they had the wrong apartment number listed on them, until after you became aware of the fact that NYSOH had your incorrect address.
- 23) Your NYSOH account confirms that notices sent to you on June 18, 20, and 22, 2017 were not returned to NYSOH as undeliverable mail.

- 24) You testified that you believe NYSOH should have contacted you by phone or email to tell you that there was a problem with your mailing address.
- 25) You testified that you would have contacted NYSOH to correct the issue much sooner, if you had been aware of it.
- 26) You testified that you have outstanding medical bills from at least three of the months that you were without coverage, and that you need your coverage so that your bills can be paid.

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

Applicable Law and Regulations

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 § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

Lawfully Present Non-Citizens Transitioned to the Essential Plan

In New York State, lawfully present non-citizens who were formerly eligible for state-funded Medicaid, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of April 1, 2015 (New York's Basic Health Plan Blueprint, p. 19, as approved March 2015; see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>). This category of non-citizens includes lawful permanent residents who are still in their first five years of permanent residency (18 NYCRR § 349.3, 8 USC § 1613).

Individuals who are eligible for state-funded Medicaid because of the 2001 decision *Aliessa v. Novello*, 96 NY2d 418 (2001), but who are not eligible for federally-funded Medicaid, and who have an income that is between 0 and 138% of the FPL, will receive benefits through the Essential Plan that “mirror” Medicaid benefits. These benefits include dental and vision benefits. Individuals in this category who have an income of less than 100% of the FPL will have no co-

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payments and no premium payments for services (NY State Department of Health Administrative Directive 16 OHIP/ADM-01, issued January 20, 2016).

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)).

However, it is NYS policy that, for individuals who would be eligible for Medicaid, but are placed in the Essential Plan 4 for immigration reasons, the period of eligibility and enrollment begins on the first day of the month in which the individual is found eligible, "mirroring" eligibility start dates from Medicaid.

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were no longer eligible for coverage through NYSOH because mail sent to you at the mailing address in your NYSOH account was returned to NYSOH as undeliverable.

The Essential Plan can both be provided through NYSOH to individuals who meet the financial and non-financial eligibility requirements. One of the non-financial requirements is that an individual seeking coverage, or enrolled in coverage, must be a NY State resident.

On June 23, 2017, NYSOH sent you a notice at the mailing address in your account confirming your eligibility for the Essential Plan. On July 10, 2017, this notice was returned to NYSOH as undeliverable, with a label on the envelope indicating that the post office was unable to deliver the mail and that they were also unable to forward it. As a result, NYSOH was unable to verify that you were still a NY State resident, and NYSOH issued a notice on July 15, 2017 informing you that you were no longer eligible to enroll in coverage through NYSOH.

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You testified that your initial application for health insurance through NYSOH was filed for you by a CAC when you were in the hospital, and your CAC's testimony confirms this. You testified that you have never lived in apartment [REDACTED] and you did not ever give this as your address to your CAC. Your CAC testified that she took information from you at the hospital and, utilizing information in the hospital's system for verification, completed your NYSOH application online on your behalf in June 2017. She testified that later, when you contacted her about your coverage being cancelled, she logged into your account and saw that the wrong mailing address had been entered. She testified that it was possible that she mistakenly typed in the wrong address when she completed your application.

You also testified that you received notices from NYSOH in June 2017, so you did not know that there was any problem with your coverage. You testified that, later, when you found out that your address was incorrect in your NYSOH account, you reviewed those notices and saw that the wrong apartment number was listed on them. However, you testified that you had no reason to look at the address at the time you received the notices, since they had arrived in the mail with no issue.

Since your CAC testified that she is the one who completed your initial application for insurance, and that it was possible that she entered the incorrect address, it was not your fault that the mailing address in your account was incorrect, as all applications and updates were completed by your CAC.

Moreover, it was reasonable for you to believe that your coverage was in place, as you credibly testified that you received notices from NYSOH in June 2017, and the record supports this testimony in that several notices from June 2017 were NOT returned to NYSOH as undeliverable mail. Lastly, since you received the June 2017 notices in the mail, it is reasonable for you to not have realized that those notices listed an incorrect apartment number.

For these reasons, NYSOH's July 15, 2017 discontinuance and disenrollment notices are RESCINDED.

The second issue under review is whether NYSOH properly determined that your eligibility for, and enrollment in, your Essential Plan coverage began on December 1, 2017.

Your NYSOH account reflects that you updated your application and enrollment on December 11, 2017, and you confirmed that this was correct in your testimony.

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.

However, for individuals who would otherwise be financially eligible for Medicaid, but who are enrolled in the Essential Plan 4 because of their immigration status, their eligibility and enrollment begin on the first day of the month in which they were found eligible.

On December 11, 2017, you updated your application and selected an Essential Plan, so your enrollment ordinarily would properly take effect on the first day of that month: December 1, 2017.

However, since your previous enrollment in your Essential Plan coverage should not have ended, the December 12, 2017 eligibility determination and enrollment confirmation notices are MODIFIED to state that your eligibility for, and enrollment in, your Essential Plan coverage was effective August 1, 2017.

Your case is RETURNED to NYSOH to backdate your Essential Plan coverage to August 1, 2017, and to notify you when this has been completed.

Decision

The July 15, 2017 discontinuance and disenrollment notices are RESCINDED.

The December 12, 2017 eligibility determination notice is MODIFIED to state that you were eligible for the Essential Plan with no monthly premium for a limited time, effective August 1, 2017.

The December 12, 2017 enrollment confirmation notice is MODIFIED to state that your enrollment in your Essential Plan coverage began on August 1, 2017.

Your case is RETURNED to NYSOH to backdate your Essential Plan coverage to August 1, 2017, and to notify you when this has been completed.

Effective Date of this Decision: March 23, 2018

How this Decision Affects Your Eligibility

You were improperly disenrolled from your Essential Plan coverage, effective August 1, 2017.

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 eligibility for, and enrollment in, your Essential Plan coverage is being backdated to August 1, 2017.

NYSOH will notify you when the backdating of your coverage is complete.

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 to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

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If You Have Questions about this Decision (Customer Service Resources):

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- By mail at:
NY State of Health Appeals
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The July 15, 2017 discontinuance and disenrollment notices are **RESCINDED**.

The December 12, 2017 eligibility determination notice is **MODIFIED** to state that you were eligible for the Essential Plan with no monthly premium for a limited time, effective August 1, 2017.

The December 12, 2017 enrollment confirmation notice is **MODIFIED** to state that your enrollment in your Essential Plan coverage began on August 1, 2017.

Your case is **RETURNED** to NYSOH to backdate your Essential Plan coverage to August 1, 2017, and to notify you when this has been completed.

You were improperly disenrolled from your Essential Plan coverage, effective August 1, 2017.

Your eligibility for, and enrollment in, your Essential Plan coverage is being backdated to August 1, 2017.

NYSOH will notify you when the backdating of your coverage is complete.

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 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 okyerε 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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