



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

## Notice of Decision

Decision Date: April 4, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000026727

[REDACTED]

[REDACTED]

On March 7, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 21, 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 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.

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: April 4, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000026727

[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 spouse's eligibility for health insurance through NYSOH ended effective December 1, 2017, and your child's eligibility ended January 1, 2018?

## Procedural History

On August 17, 2017, NYSOH issued an eligibility determination notice stating that your spouse was eligible to enroll in the Essential Plan for a limited time, and your child was conditionally eligible for Medicaid, effective August 1, 2017. The notice directed you to provide documentation confirming their immigration status before November 14, 2017.

On August 17, 2017, NYSOH issued a plan enrollment notice confirming your spouse's enrollment in an Essential Plan 4, effective August 1, 2017, and your child's enrollment in her Medicaid Managed Care plan, effective October 1, 2017.

No documentation was received by the November 14, 2017 deadline.

On November 20, 2017, your spouse and your child's eligibility were redetermined.

On November 21, 2017, NYSOH issued an eligibility determination notice stating that your spouse and child were not qualified to enroll in health insurance coverage through NYSOH, because NYSOH did not receive the citizenship

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documentation needed to verify their respective eligibility. Your spouse's eligibility ended effective December 1, 2017, and your child's ended January 1, 2018.

On November 21, 2017, NYSOH issued a disenrollment notice stating that your spouse's enrollment in the Essential Plan would end as of November 30, 2017, and your child's enrollment in her Medicaid Managed Care plan would end as of December 31, 2017, because they were no longer eligible to remain in their plan.

On January 3, 2018, you spoke to NYSOH's Account Review Unit and appealed the termination of your spouse's Essential Plan as of December 1, 2017 and your child's Medicaid Managed Care plan as of January 1, 2018.

On January 20, 2018, NYSOH issued a notice stating your spouse was eligible for the Essential Plan and your child was eligible for Medicaid both for a limited time, effective January 1, 2018. The notice stated they had been granted Aid to Continue until a decision was made on their appeal.

On January 20, 2018, NYSOH issued a plan enrollment notice confirming your spouse's enrollment in her Essential Plan 4, effective December 1, 2017, and your child's enrollment in her Medicaid Managed Care plan, effective January 1, 2018.

On March 7, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open for fifteen days to allow you to submit supporting documents.

On March 12, 2018, NYSOH received a four-page fax. The fax was illegible and will not be considered an exhibit for purposes of your appeal. On March 12, 2018 documents were uploaded to your NYSOH account as your supporting documentation (see Documents [REDACTED])

## **Findings of Fact**

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

- 1) According to your NYSOH account, and your testimony, you receive all of your notices from NYSOH via regular mail.
- 2) You testified that you did receive the August 17, 2017 notice stating that your spouse and child's eligibility were only conditional and that you needed to provide documentation of their immigration status.

- 3) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 4) You testified you provided your immigration documentation to your broker and they never sent it to NYSOH.
- 5) Your NYSOH account indicates that, on November 20, 2017, your application was run and your spouse and child were found no longer eligible for the health insurance through NYSOH. Your spouse was ineligible as of December 1, 2017 and your child's ended January 1, 2018.
- 6) You submitted immigration documentation to NYSOH on March 12, 2018 (see Documents [REDACTED]).
- 7) You testified that you are seeking unconditional re-enrollment for your spouse as of December 1, 2017 and your child as of January 1, 2018.

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

## **Applicable Law and Regulations**

### Verification of Eligibility for the 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).

NYSOH must verify the eligibility of an applicant for the Essential Plan consistent with the standards set in 45 CFR § 155.315 and § 155.320 (New York's Basic Health Plan Blueprint, pgs. 16-17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>; 42 CFR § 600.345(a)(2)).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5-day period (42 CFR § 600.345, 45 CFR § 155.315(c)(3), (f)(2)(i)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any updates in eligibility to the Essential Plan effective the first day of the following month for changes received by NYSOH from the first to the fifteenth of any month (45 CFR § 155.420(b)(1)(i); *see also* 42 CFR § 600.320(c)). For updates 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 § 155.420(b)(1)(ii); *see also* 42 CFR § 600.320(c)).

Lawfully present non-citizens who are eligible for Essential Plan include qualified aliens in the five-year ban, certain persons Permanently Residing Under Color of Law (PRUCOL) and temporary non-immigrants meeting residency requirements (45 CFR § 152.2(2) and (4)(i); 16 OHIP/ADM-01 (01/20/2016)). Immigrants who are pregnant or are under 21 years of age, and are in the first five years of their qualified status or are PRUCOL, are eligible for federal financial participation and, therefore, are not eligible for Essential Plan and will remain in Medicaid (*id.*).

#### Verification of Eligibility for Medicaid

A person who meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard is eligible for Medicaid benefits (45 CFR § 155.305(c)). One of the non-financial criteria for Medicaid eligibility is the immigration status of the person applying for health insurance. A person is eligible for Medicaid when his or her immigration status is satisfactory and he or she meets all other requirements for Medicaid (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5-day period (42 CFR § 435.956(b)(2)).

## Legal Analysis

The issue under review is whether NYSOH properly determined that spouse's eligibility for health insurance through NYSOH ended effective December 1, 2017, and your child's eligibility ended January 1, 2018.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that their citizenship or immigration status are satisfactory.

If NYSOH cannot verify an individual's immigration status, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on August 17, 2017, you were advised that your spouse was eligible for the Essential Plan for a limited time and your child was eligible for Medicaid for a limited time, and that you needed to confirm both their immigration statuses by providing documentation before November 14, 2017.

You testified that you did receive a notice from NYSOH telling you that you needed to provide immigration documentation to confirm your spouse and child's eligibility. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm your citizenship status listed in the account.

You testified you provided this documentation to your Broker, but they never sent it to NYSOH for you. The record shows NYSOH never received this documentation by the deadline of November 14, 2017. Their eligibility was then redetermined as of November 20, 2017.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available from the data sources.

Accordingly, your spouse's eligibility for the Essential Plan terminated as of December 1, 2017, and your child's Medicaid eligibility terminated as of January 1, 2018, because you did not submit immigration documentation.

Therefore, the November 21, 2017 eligibility determination notice and disenrollment notice were proper and must be **AFFIRMED**.

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).

After your hearing, you submitted supporting immigration documentation on March 12, 2018. If NYSOH has not already acted upon this submission, your case is RETURNED to NYSOH to verify the submitted immigration documentation and redetermine your spouse and child's eligibility based on their updated immigration status and to notify you once this has been completed. NYSOH is directed to verify Documents [REDACTED]

## **Decision**

The November 21, 2017 eligibility determination notice and disenrollment notice were proper and are AFFIRMED.

If NYSOH has not already acted upon this submission, your case is RETURNED to NYSOH to verify the submitted immigration documentation and redetermine your spouse and child's eligibility based on their updated immigration status and to notify you once this has been completed. NYSOH is directed to verify Documents [REDACTED]

**Effective Date of this Decision:** April 4, 2018

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

NYSOH properly found your spouse and child no longer eligible for health insurance through NYSOH as of December 1, 2017 and January 1, 2018 respectively, because you did not provide documentation of their immigration status by the required deadline.

If NYSOH has not already acted on your submission, NYSOH is being directed to verify the immigration documentation you submitted on behalf of your spouse and child and redetermine their respective eligibility. You will receive notice to this effect.

## **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.

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):**

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

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## **Summary**

The November 21, 2017 eligibility determination notice and disenrollment notice were proper and are AFFIRMED.

If NYSOH has not already acted upon this submission, your case is RETURNED to NYSOH to verify the submitted immigration documentation and redetermine your spouse and child's eligibility based on their updated immigration status and to notify you once this has been completed. NYSOH is directed to verify Documents [REDACTED]  
[REDACTED]

NYSOH properly found your spouse and child no longer eligible for health insurance through NYSOH as of December 1, 2017 and January 1, 2018 respectively, because you did not provide documentation of their immigration status by the required deadline.

If NYSOH has not already acted on your submission, NYSOH is being directed to verify the immigration documentation you submitted on behalf of your spouse and child and redetermine their respective eligibility. You will receive notice to this effect.

## **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&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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