



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

## Notice of Decision

Decision Date: April 2, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000026752

[REDACTED]

[REDACTED]

On March 19, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 9, 2017 plan disenrollment notice, January 5, 2018 eligibility determination notice and the January 5, 2018 plan enrollment 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: April 2, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000026752

[REDACTED]

## Issues

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

Did NY State of Health (NYSOH) properly terminate your Essential Plan for non-payment of premium, effective October 31, 2017?

Did NYSOH properly determine that your eligibility for and enrollment in in the Essential Plan was effective February 1, 2018?

## Procedural History

On September 16, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective October 1, 2017.

Also on September 16, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in an Essential Plan with a \$20.00 monthly premium, effective October 1, 2017.

On November 9, 2017, NYSOH issued a disenrollment notice stating that your enrollment in your Essential Plan was terminated, effective October 31, 2017, because your health plan did not receive a premium payment by the deadline.

On November 20, 2017, the November 9, 2017 notice was returned to NYSOH as undeliverable because the mailing address was marked invalid. As a result of the returned mail, on November 20, 2017, NYSOH redetermined your eligibility for health insurance.

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On November 22, 2017, NYSOH issued a discontinuance notice stating that you no longer qualified for health coverage through NYSOH, effective December 1, 2017. The notice stated this was because mail sent to you by NYSOH to the mailing address you provided in your account was returned as undeliverable by the U.S. Postal Service.

On January 4, 2018, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium. You selected a plan for enrollment that day

Also on January 4, 2018, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan for the month of November 2017.

On January 5, 2018, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective February 1, 2018.

Also on January 5, 2018, NYSOH issue a plan enrollment notice, based on your plan selection on January 4, 2018, stating that you were enrolled in an Essential Plan with a \$20.00 monthly premium, effective February 1, 2018.

On March 19, 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) According to your NYSOH account and testimony, you receive all your communications from NYSOH by regular mail.
- 2) You testified that your residential and mailing address was [REDACTED] until June 2017, at which time you moved to your current residential and mailing address, [REDACTED]
- 3) According to your NYSOH and your testimony, on September 15, 2017, a health insurance navigator assisted you with applying for health insurance, and with selecting a plan for enrollment.
- 4) You testified that, on September 15, 2017, you told the navigator that your address had changed, and that the navigator told you he made all of the necessary address changes in your NYSOH account.

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- 5) According to your NYSOH account, on September 15, 2017 at 10:51:7 AM an event titled "Where You Lived Changed," was created in the Events Tab. In your Address History tab, your legal address was changed from [REDACTED] to [REDACTED]; however, your mailing address remained [REDACTED].
- 6) According to your NYSOH and your testimony, you were disenrolled from your Essential Plan with Excellus BlueCross BlueShield, effective October 31, 2017, because you did not pay your \$20.00 monthly premium.
- 7) You testified that you did not pay the premiums because your health plan sent the bill for your monthly premium to the wrong address ([REDACTED]).
- 8) On December 1, 2017, your eligibility for the Essential Plan ended because mail sent to you from NYSOH at the [REDACTED] address was returned as undeliverable.
- 9) You testified that you realized you were disenrolled from your Essential Plan with Excellus BlueCross BlueShield, and your eligibility for the Essential Plan ended, when you began receiving medical bills.
- 10) On January 4, 2018, NYSOH received your updated application and Essential Plan selection, and you were enrolled in an Essential Plan with a \$20.00 monthly premium, effective February 1, 2018.
- 11) According to your NYSOH account, on January 4, 2018, at 10:51:58 AM, an event titled "Mailing Address Changed," was created in the Events Tab, and your mailing address was updated.
- 12) You testified that you are seeking enrollment in your Essential Plan to begin on November 1, 2017, because you have medical bills from the months of November 2017, December 2017, and January 2018.

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

## **Applicable Law and Regulations**

### Appealable Issues

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax

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credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

### 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)).

### Requirement for Individuals to Report Changes

NYSOH must require an applicant to report any change which may affect eligibility, such as citizenship status, incarceration, residency, household size, and income within 30 days of such change (45 CFR §155.330(b), 45 CFR §155.305, 42 CFR §435.403, 42 CFR §435.406, 42 CFR §425.603).

### 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)).

## Legal Analysis

The first issue under review is whether NYSOH properly terminated your Essential Plan for non-payment of premium, effective October 31, 2017.

On September 16, 2017, you were enrolled in an Essential Plan, effective October 31, 2017. You testified that you did not pay the premiums because your health plan sent the bill for your monthly premium to the wrong address. On October 31, 2017, you were disenrolled from your Essential Plan for non-payment of premiums, effective October 31, 2017.

NYSOH Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure to provide timely notice of an eligibility determination and (5) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether or not you were properly terminated from your Essential Plan for non-payment of premiums. Therefore, your appeal of the November 9, 2017 plan disenrollment notice is **DISMISSED** as a non-appealable issue.

However, you testified that you did not pay the premiums to Excellus BlueCross BlueShield because your health plan sent the bill for your monthly premium to the wrong address. Excellus BlueCross BlueShield may be able to help you with your request for coverage. If you have not already been assisted with your current coverage issue, please contact Excellus BlueCross BlueShield directly.

In addition, since your issue concerns a health insurer and/or payment, reimbursement, coverage, benefits, rates and premiums, you can contact NY Department of Financial Services at their Consumer Hotline at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30 PM); or locally to (212) 480-6400; or you can file a complaint at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>.

The second issue under review is whether NYSOH properly determined that your eligibility for, and enrollment in, your Essential Plan was effective February 1, 2018.

On November 9, 2017, NYSOH mailed a notice to the mailing address provided in your NYSOH account, [REDACTED]. On November 20, 2017, that notice was returned to NYSOH by the U.S. Postal Service as undeliverable. As a result, on November 21, 2017, NYSOH redetermined your

eligibility because the system assumed you no longer met the state residency requirement for eligibility for the Essential Plan.

On November 22, 2017, NYSOH issued a discontinuance notice on stating that as of December 1, 2017, you were no longer qualified for health coverage through NYSOH. That notice stated that this was because NYSOH sent a notice to the mailing address provided in your account, but the notice was returned.

On January 4, 2018, you applied for health insurance through NYSOH and selected a plan for enrollment.

The date on which an Essential Plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and 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 and the end of the month goes into effect on the first day of the second following month.

Since you contacted NYSOH to re-enroll into an Essential Plan on January 4, 2018, ordinarily your re-enrollment would take effect the first day of the first month following January 2018; that is, on February 1, 2018. However, the credible evidence of record indicates that you were disenrolled from the Essential Plan through no fault of your own.

The record reflects that you receive your communications with NYSOH, including notices about your eligible and coverage by regular mail. You testified, and your NYSOH account corroborates that, on September 15, 2017, you submitted an application for health insurance with the assistance of a navigator. You testified that at the time of that application, you told the navigator to update your address in your NYSOH account to [REDACTED] because you moved and you wished to receive your mail from NYSOH at your new address. You testified that the navigator told you that he updated your address as per your request. However, the record reflects that on September 15, 2017, your legal address was changed from [REDACTED] [REDACTED], but your mailing address remained [REDACTED]. You testified that you were not aware that you were no longer enrolled in the Essential Plan until January 2018 when you began receiving medical bills, at which time you testified you updated your NYSOH account. Your NYSOH account reflects that your mailing address was changed to [REDACTED] [REDACTED] on January 4, 2018, at which time an updated application for health insurance was submitted and an Essential Plan was selected.

Based on the credible evidence of record, it is reasonable to conclude that the error in your mailing address was the result of the navigator, and not your own.

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But for the navigator error you would have remained eligible for and enrolled in the Essential Plan.

Therefore, the January 5, 2018, eligibility determination and plan enrollment notices stating respectively that you were eligible to enroll in an Essential Plan and were enrolled in the plan you selected, both effective February 1, 2018, are MODIFIED to reflect a December 1, 2017 start date.

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

## **Decision**

Your appeal of the insurer's termination of your enrollment in the Essential Plan for non-payment of premiums, effective October 31, 2017, is DISMISSED as a non-appealable issue.

The January 5, 2018 eligibility determination notice is MODIFIED to state that your eligibility for the Essential Plan was effective December 1, 2017.

The January 5, 2018 plan enrollment notice is MODIFIED to state that your enrollment in your Essential Plan was effective December 1, 2017.

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

**Effective Date of this Decision: April 2, 2018**

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

Your eligibility and enrollment in the Essential Plan is should have been effective as of December 1, 2017.

Your case is being sent back to NYSOH to re-enroll you in your Essential Plan as of December 1, 2017.

You are responsible for any premium payments for the months in which coverage is to resume.

## **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

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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.

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:

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).

- 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**

Your appeal of the insurer's termination of your enrollment in the Essential Plan for non-payment of premiums, effective October 31, 2017, is **DISMISSED** as a non-appealable issue.

The January 5, 2018 eligibility determination notice is **MODIFIED** to state that your eligibility for the Essential Plan was effective December 1, 2017.

The January 5, 2018 plan enrollment notice is **MODIFIED** to state that your enrollment in your Essential Plan was effective December 1, 2017.

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

Your eligibility and enrollment in the Essential Plan is should have been effective as of December 1, 2017.

Your case is being sent back to NYSOH to re-enroll you in your Essential Plan as of December 1, 2017.

You are responsible for any premium payments for the months in which coverage is to resume.

## **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।

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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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