



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

Notice of Decision

Decision Date: April 20, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027159

[REDACTED]

On April 13, 2018, you and your authorized representative appeared by telephone at a hearing on your appeal of NY State of Health's October 18, 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

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).

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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Decision

Decision Date: April 20, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027159

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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 was effective January 1, 2018?

Procedural History

According to your NYSOH account, you were found conditionally eligible for and enrolled in the Essential Plan as of August 1, 2017. You were directed to provide proof of citizenship status by October 11, 2017.

No documentation was received by NYSOH before October 11, 2017.

On October 18, 2017, NYSOH issued an eligibility determination notice stating that you do not qualify for health coverage through NYSOH because you did not provide proof of your citizenship status. This eligibility was effective November 1, 2017.

Also on October 18, 2017, a disenrollment notice was issued stating that you were disenrolled from your Essential Plan as of October 31, 2017.

On November 2, 2017, NYSOH issued an eligibility determination notice, based on your November 1, 2017 updated application, stating that the income information in your application did not match what NY State of Health received from state and federal data sources. You were directed to provide proof of your

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household income by November 16, 2017, and proof of your citizenship status by January 30, 2018.

On November 6, 2017 and November 28, 2017, you submitted a copy of your United States Passport, your insurance card, and two bi-weekly paystubs, dated October 20, 2017 and November 3, 2017, respectively (see Documents [REDACTED]).

These documents were validated by NYSOH on December 7, 2017.

On December 8, 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 January 1, 2018.

On December 19, 2017, a plan enrollment notice was issued confirming your selection of your Essential Plan, with a plan enrollment start date of January 1, 2018.

On January 12, 2018, you spoke to NYSOH's Account Review Unit and appealed the start date of your Essential Plan insofar as you were not covered for the month of December 2017.

On April 13, 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, you were determined conditionally eligible for the Essential Plan on July 14, 2017, with an effective date of August 1, 2017. You were required to provide to NYSOH your proof of citizenship but, since you failed to provide this proof, you were determined no longer eligible for the Essential Plan as of November 1, 2017.
- 2) According to your NYSOH account, at the time you applied, you received your notices from NYSOH via electronic alert.
- 3) Your authorized representative testified that you were aware that you needed to supply proof of citizenship status to confirm your eligibility. He believed you did send this proof in a timely manner, but he has no proof of this.
- 4) You and your authorized representative testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling

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you that your eligibility had been redetermined or that you were disenrolled from your Essential Plan as of November 1, 2017. You also testified that you did not receive any such notices by regular mail.

- 5) You and your authorized representative testified that you did not know that you needed to update your account until you received a telephone call from your health plan advising you that your insurance was about to lapse.
- 6) According to your NYSOH account, you updated your application for health insurance on November 1, 2017. That day, you were placed in pending Medicaid status and were directed to provide proof of your citizenship status and income to confirm your eligibility. NYSOH received this proof as of November 28, 2017, and you were found fully eligible for the Essential Plan on December 7, 2017.
- 7) Your authorized representative testified that you are seeking coverage in the Essential Plan for December 2017, because you have medical bills for that month.
- 8) NYSOH uploaded an evidence packet to your NYSOH account. Contained within that evidence packet under the heading of “electronic notice requirement” is a three-page memorandum dated August 21, 2017. The memorandum sets forth the federal requirements regarding use of electronic communications and asserts that NYSOH is in compliance with federal regulation and guidance on the use of electronic notices. The memorandum asserts that “the electronic notification rules do not require that exchanges track and monitor consumers actual receipt of electronic notices”.
- 9) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the October 18, 2017 disenrollment notice.

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

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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)).

To enroll in a qualified health plan through NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

NYSOH must verify or obtain information to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence and that the income information the applicant is attesting to is accurate (45 CFR § 155.315(a), (c); 45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A); 45 CFR § 155.320(c)(3)(iii), (iv)).

If an applicant attests to citizenship, status as a national, lawful presence, or income and NYSOH is unable to verify such attestation, NY State of Health must then provide the applicant with 90 days to provide satisfactory documentary evidence. 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 (45 CFR § 155.315(c)(3), (f)(2)(i)). If NYSOH remains unable to verify the citizenship and income attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(2), (5), (g)).

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)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

Legal Analysis

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

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her citizenship status. For individuals seeking enrollment in the Essential Plan, NYSOH must request data from federal data sources to verify an individual's citizenship status. If NYSOH is unable to verify such attestation, NY State of Health must then provide the applicant with 90 days to provide satisfactory documentary evidence.

Your authorized representative testified that you were aware that you needed to supply proof of citizenship status to confirm your eligibility. As such, it is concluded that you were properly notified of your need to submit proof of your citizenship status. Because you failed to submit this proof by the October 11, 2017 deadline, you were found no longer eligible for the Essential Plan as of November 1, 2017.

Nonetheless, you and your authorized representative testified that you did not receive any electronic alerts regarding the October 18, 2017 notices in your NYSOH account that told you that your eligibility had been redetermined or that you were disenrolled from your Essential Plan as of November 1, 2017. You also did not receive any such notices by regular mail.

According to your NYSOH account, you elected to receive alerts regarding notices from NYSOH electronically. Although NYSOH contends that it complied with federal mandates regarding electronic notices, there is no evidence in the file that NYSOH sent you an electronic alert notifying you of the two new notices available in your account on October 18, 2017. There is also no evidence in your account documenting that any email alert was sent to you regarding the notice,

that any such electronic alert failed, or that the notice was later sent to you by regular mail.

NYSOH is required to send applicants proper notice for applicants to take appropriate action. Since there is no evidence that NYSOH sent you an email alert, and you testified that you did not receive one, there is insufficient evidence in the record that NYSOH provided you with proper notice by electronic means that you were disenrolled from your Essential Plan and that you needed to update your account to continue to receive financial assistance and health insurance through NYSOH.

Since you were not made aware of and did not receive proper notice that your eligibility was redetermined and that, as a result, you were disenrolled from your Essential Plan as of November 1, 2017, the October 18, 2017 eligibility determination and disenrollment notices, stating that you are no longer eligible for the Essential Plan are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan effective November 1, 2017.

Decision

The October 18, 2017 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan effective November 1, 2017, and to notify you accordingly.

Effective Date of this Decision: April 20, 2018

How this Decision Affects Your Eligibility

NYSOH erred in terminating your Essential Plan effective November 1, 2017, without the proper notice.

Your case is being sent back to NYSOH to reinstate your coverage in your Essential Plan effective November 1, 2017. NYSOH will notify you once this has been done.

You will be responsible for any monthly premiums owed for the months in which your coverage has been reinstated.

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).

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.

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

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The October 18, 2017 eligibility determination and disenrollment notices are **RESCINDED**.

NYSOH erred in terminating your Essential Plan effective November 1, 2017, without the proper notice.

Your case is being sent back to NYSOH to reinstate your coverage in your Essential Plan effective November 1, 2017. NYSOH will notify you once this has been done.

You will be responsible for any monthly premiums owed for the months in which your coverage has been reinstated.

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 srε wo, frε 1-855-355-5777. ye&εtumi 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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