

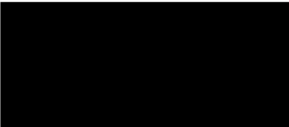


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: May 30, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027193



Dear [REDACTED]

On March 15, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's August 25, 2017 eligibility determination and discontinuance notices and the September 19, 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 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).

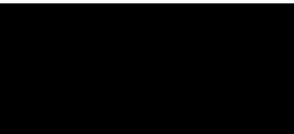
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STATE OF NEW YORK
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Decision

Decision Date: May 30, 2018

NY State of Health Account ID: [REDACTED]
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Issues

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

Was your appeal of New York State of Health's (NYSOH) August 25, 2017 eligibility determination notice timely?

Did NYSOH properly determine that your eligibility for and enrollment in the Essential Plan was next effective November 1, 2017?

Procedural History

On April 21, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan for a limited time, effective June 1, 2017. The notice further directed you to provide documentation confirming your household income by July 18, 2017 and your immigration status by July 19, 2017.

Also on April 21, 2017, NYSOH issued a notice confirming your enrollment in an Essential Plan 1 Plus Vision and Dental with a \$47.60 monthly premium, effective June 1, 2017.

On July 25, 2017, NYSOH issued a notice stating that the documentation you submitted had been reviewed and did not confirm the information in your application. You were directed to submit acceptable proof of immigration status by August 18, 2017.

Also on July 25, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan for a limited time, effective June 1, 2017. The notice further directed you to provide documentation confirming your immigration status by July 19, 2017.

On August 25, 2017, NYSOH issued an eligibility determination notice stating that you were no longer eligible for health insurance through NYSOH, effective October 1, 2017. The notice stated that you did not provide information to confirm your immigration status by the deadline to do so.

However, also on August 25, 2017, NYSOH issued a disenrollment notice stating that your enrollment in the Essential Plan 1 Plus Vision and Dental would end as of August 31, 2017, because you were no longer eligible to enroll in health insurance through NYSOH.

On September 18, 2017, you submitted an updated application for financial assistance with health insurance.

On September 19, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan for a limited time, effective November 1, 2017. The notice further directed you to provide documentation confirming your immigration status and household income by December 17, 2017.

Also on September 19, 2017, NYSOH issued a notice confirming your enrollment in an Essential Plan 1 Plus Vision and Dental with a \$47.60 monthly premium, effective November 1, 2017.

Between September 19, 2017 and January 10, 2018, NYSOH issued multiple notices based on updated applications for financial assistance and documentation that you submitted.

On January 10, 2018, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan, effective February 1, 2018. No restrictions were listed in this eligibility determination.

On January 12, 2018, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan for the months of September 2017 and October 2017.

On March 15, 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 your testimony, you receive your notices from NYSOH by regular mail.
- 2) On July 21, 2017, you uploaded to your NYSOH account a copy of your I-551 resident alien card.
- 3) According to your NYSOH account, your I-551 resident alien card was reviewed and invalidated as it was unreadable. A review of the documents in your file confirms that the information on the card is unreadable. On July 25, 2017, NYSOH issued a notice stating the documentation you submitted had been reviewed but did not confirm your information. The notice requested you submit proof of income by August 18, 2017.
- 4) Your NYSOH account indicates that on August 24, 2017, your eligibility was redetermined and you were found no longer eligible for the Essential Plan effective August 31, 2017.
- 5) The eligibility determination notice issued by NYSOH on August 25, 2017 stated that you did not qualify for health coverage through NYSOH, effective October 1, 2017.
- 6) The disenrollment notice issued by NYSOH on August 25, 2017, stated that your coverage in your Essential Plan 1 Plus Vision and Dental would end on August 31, 2017.
- 7) You testified that you did not receive the July 25, 2017 notice regarding the need to submit proof of immigration by August 18, 2017.
- 8) You testified that you did not receive the August 25, 2017 eligibility determination and disenrollment notices.
- 9) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 10) You testified that you did not know that your insurance had been cancelled or that you needed to submit proof of immigration status until you went to the pharmacy to fill a required prescription following a surgical procedure on [REDACTED].
- 11) Your NYSOH account indicates that on September 18, 2017, you updated your application and you were found eligible for the Essential

Plan for a limited period as of November 1, 2017 and were subsequently enrolled in a plan with a plan start date of November 1, 2017.

- 12) According to your NYSOH account, you submitted legible proof of your immigration status on October 21, 2017.
- 13) You testified that you are seeking enrollment in your Essential Plan as of September 1, 2017 because you had [REDACTED] on [REDACTED] and were not aware that your insurance coverage ended on August 31, 2017.

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

Applicable Law and Regulations

Valid Appeal Requests

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 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) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (4) 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)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR §155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances, and that this failure should not preclude the appeal (45 CFR § 155.520(d)(2)(i)(D)).

Verification of Eligibility for the Essential Plan

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 five days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five-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)).

Legal Analysis

The first issue under review is whether your appeal of NYSOH's August 25, 2017 eligibility determination was timely.

The record reflects that you first contacted NYSOH to file an appeal regarding the termination of your Essential Plan for September and October 2017 on January 12, 2018. The decision that led to your disenrollment for those months was issued on August 25, 2017.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH. Therefore, for an appeal to have been valid in regard to the August 25, 2017 eligibility determination notice, an appeal should have been filed by October 24, 2017.

The record reflects that you filed your appeal on January 12, 2018, which is well beyond the 60-day deadline. Your appeal regarding the August 25, 2017 eligibility determination notice that stated you were no longer eligible for health insurance through NYSOH, effective September 1, 2017, was therefore untimely.

It is noted that an appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and that the appeal should not be precluded.

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 testified that you did not receive the relevant notices, which is why you did not file an appeal until January 12, 2018. However, the file indicates that there was significant activity on your account between August December 2017, at least some of which involved action on your part. Therefore, the Appeals Unit does not find that any exceptional circumstances have occurred that would prevent the preclusion of your appeal.

Therefore, there has been no valid timely appeal of the August 25, 2017 eligibility determination notice and your appeal on your eligibility as stated in that notice is **DISMISSED**.

However, the Appeals Unit notes that the eligibility determination notice issued on August 25, 2017 stated you were eligible to remain in coverage until the end of September 2017, while the enrollment notice issued the same day stated your coverage would end at the end of August 2017.

The eligibility determination notice represents a formal finding of NYSOH, and it includes your appeals rights. The same cannot be said of a simple enrollment notice. Given the contradiction between the two, the Appeals Unit finds that the date included in the eligibility notice must prevail.

Therefore, the August 25, 2017 enrollment notice is **MODIFIED** to reflect the correct end of your coverage as September 30, 2017, as required by the eligibility determination of the same date.

The second issue is whether NYSOH properly determined that your eligibility for and enrollment in the Essential Plan was next effective November 1, 2017.

You testified, and your account confirms, that you updated your NYSOH application on September 18, 2017. That day you selected an Essential Plan for enrollment.

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.

Since on September 18, 2017, you selected an Essential Plan, your enrollment would properly take effect on the first day of the second month following September 2017; that is, on November 1, 2017.

Therefore, the September 19, 2017 eligibility determination notice, and the September 19, 2017 enrollment confirmation notice stating that your enrollment

in the Essential Plan was effective November 1, 2017, are correct and must be AFFIRMED.

Decision

There has been no valid timely appeal of the August 25, 2017 eligibility determination notice and your appeal on your eligibility as stated in that notice is DISMISSED.

The August 25, 2017 enrollment notice is MODIFIED to reflect the correct end of your coverage was September 30, 2017, as required by the eligibility determination of the same date.

The September 19, 2017 eligibility determination and enrollment confirmation notices are AFFIRMED.

Your case is RETURNED to NYSOH to reenroll you in your Essential Plan 1 Plus Vision and Dental for the month of September 2017 and to notify you accordingly.

You will be responsible for any premium due for the month of September 2017.

Effective Date of this Decision: May 30, 2018

How this Decision Affects Your Eligibility

You should have remained enrolled in your Essential Plan 1 Plus Vision and Dental through September 30, 2017.

Your case is RETURNED to NYSOH to reenroll you in your Essential Plan 1 Plus Vision and Dental for the month of September 2017 and to notify you accordingly.

You will be responsible for any premium due for the month of September 2017.

You did not have health insurance coverage through NYSOH for the month of October 2017.

NYSOH properly found that your reenrollment in the Essential Plan was effective November 1, 2017.

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

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).

Albany, NY 12211

- By fax: 1-855-900-5557

Summary

There has been no valid timely appeal of the August 25, 2017 eligibility determination notice and your appeal on your eligibility as stated in that notice is **DISMISSED**.

The August 25, 2017 enrollment notice is **MODIFIED** to reflect the correct end of your coverage was September 30, 2017, as required by the eligibility determination of the same date.

The September 19, 2017 eligibility determination and enrollment confirmation notices are **AFFIRMED**.

Your case is **RETURNED** to NYSOH to reenroll you in your Essential Plan 1 Plus Vision and Dental for the month of September 2017 and to notify you accordingly.

You will be responsible for any premium due for the month of September 2017.

You should have remained enrolled in your Essential Plan 1 Plus Vision and Dental through September 30, 2017.

You did not have health insurance coverage through NYSOH for the month of October 2017.

NYSOH properly found that your reenrollment in the Essential Plan was effective November 1, 2017.

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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