



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: AP000000027207

[REDACTED]  
[REDACTED]  
[REDACTED]

On March 27, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 13, 2018 eligibility determination notice and the January 15, 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 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.

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## Decision

Decision Date: April 2, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027207

[REDACTED]

## 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 your spouse's eligibility for the Essential Plan ended effective December 31, 2017?

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

## Procedural History

On August 14, 2017, NYSOH issued an eligibility determination notice stating that your spouse was eligible to enroll in the Essential Plan for a limited time, effective September 1, 2017. The notice directed you to provide documentation confirming your spouse's citizenship status before November 11, 2017.

On August 16, 2017, a plan enrollment notice was issued confirming your spouse's enrollment in an Essential Plan, effective September 1, 2017.

On November 8, 2017 and November 14, 2017, you uploaded a copy of your spouse's NYS Driver's License (see Documents # [REDACTED]), which documents were invalidated as insufficient by NYSOH on November 9, 2017 and November 14, 2017.

On November 10, 2017 and November 15, 2017, NYSOH issued notices stating that the documentation you submitted did not confirm the information in your

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application. You were directed to provide additional proof of your spouse's citizenship before November 26, 2017 and December 11, 2017, respectively.

On December 17, 2017, NYSOH issued an eligibility determination notice stating that your spouse did not qualify for health coverage through NYSOH. This was because you did not provide sufficient proof of her citizenship status. Your spouse's eligibility ended effective January 1, 2018.

On December 18, 2017, a disenrollment notice was issued stating that your spouse was terminated from her Essential Plan, effective December 31, 2017, she was no longer eligible to enroll in health coverage through NYSOH.

On January 12, 2018, you uploaded copies of your spouse's passport, birth certificate, social security card, and your marriage license (see Documents

[REDACTED]  
These documents were validated by NYSOH that same day.

On January 13, 2018, NYSOH issued an eligibility determination notice, based on your spouse's January 12, 2018 updated application, stating that your spouse was eligible to enroll in the Essential Plan, effective February 1, 2018.

On January 15, 2018, a plan enrollment notice was issued confirming, in part, your spouse's enrollment in an Essential Plan, effective February 1, 2018.

Also on January 15, 2018, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as your spouse's Essential Plan coverage began on February 1, 2018, and not January 1, 2018.

On March 27, 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 notices from NYSOH via regular mail.
- 2) You testified that you did receive the August 14, 2017 notice stating that your spouse's eligibility was only conditional and that you needed to provide documentation to confirm her citizenship status before November 11, 2017. This notice included a list of acceptable documents, which included an "enhanced" NYS Driver's License.

- 3) You testified that you did send the required documentation in a timely manner. You did not understand why your documentation was not accepted.
- 4) According to your NYSOH account and testimony, on November 8, 2017 and November 14, 2017, you uploaded a copy of your spouse's NYS Driver's License 2016 (see Documents # [REDACTED] and [REDACTED] which documents were invalidated by NYSOH on November 9, 2017 and November 14, 2017 because it was not an "enhanced" driver's license.
- 5) Your NYSOH account indicates that, on December 16, 2017, your spouse's application was systematically run and your spouse was found to be no longer eligible for the Essential Plan as of December 31, 2017.
- 6) You testified that you and your spouse never received any notice indicating that your spouse was terminated from her Essential Plan as of December 31, 2017.
- 7) You further testified you did not find out that your spouse did not have coverage when she went to the [REDACTED] at which time you were advised by [REDACTED] she had no coverage.
- 8) On January 12, 2018, you uploaded a copy of your spouse's passport, birth certificate, social security card, and your marriage license (see Documents [REDACTED] [REDACTED] These documents were validated by NYSOH that same day.
- 9) On January 13, 2017, NYSOH issued a notice, based on your spouse's January 12, 2017 updated application, stating that your spouse's health coverage will not begin until she picks a plan.
- 10) You testified you are seeking your spouse's enrollment in the Essential Plan to begin as of January 1, 2018, because she has medical bills for that month.

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/basic-health-program.html>; 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 in order 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 (45 CFR § 155.315(a), (c)).

If an applicant attests to citizenship, status as a national, or lawful presence, 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 attestation after the 90 day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

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,

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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)).

### Enhanced NYS Driver's License

A Federal agency may not accept, for any official purpose, a driver's license or identification card issued by a state to any person unless the state is meeting certain requirements contained in the REAL ID Act. A NYS "enhanced" driver's license, permit, or non-driver ID is Federal REAL ID compliant and requires an office visit to prove your identity, NYS residency, US Citizenship, date of birth, and social security status. Due to these additional requirements, "enhanced" licenses are designated as acceptable for official purposes such as providing proof of identity and US citizenship. Standard Driver's Licenses and identification are used solely provide proof of identity and are not approved for federal purposes (see Pub. L. 109-13 REAL ID ACT OF 2005, Section 202(2)(B); (3)(d)).

### 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 first issue under review is whether NYSOH properly determined that your spouse's eligibility for the Essential Plan ended effective December 31, 2017.

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

If NYSOH cannot verify an individual's attestation, 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. For purposes of verifying citizenship, notice is considered received 5 days after the date on the notice.

In the eligibility determination issued on August 14, 2017, you were advised that your spouse was eligible for the Essential Plan for a limited time, and that you needed to confirm her citizenship status before November 11, 2017. You testified that you did receive this notice.

Therefore, NYSOH properly notified you of an inconsistency in your spouse's account and that documentation was needed to confirm her eligibility in the Essential Plan.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must re-determine an individual's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation.

Although you submitted your spouse's NYS driver's license as proof of citizenship on November 8, 2017, the August 15, 2017 explicitly stated that an "enhanced" NYS driver's license was needed to prove citizenship. You provided your spouse's standard NYS Driver's License, but did not provide an "enhanced" driver's license, as such the documentation was invalidated by NYSOH on November 9, 2018 because it was insufficient to prove citizenship. Thereafter, no further documentation was received before the November 11, 2017 deadline.

Since NYSOH was unable to validate your spouse's citizenship status within 90 days of the inconsistency in your account, NYSOH re-determined her eligibility without verification of her citizenship status on December 16, 2017. Accordingly, your spouse's eligibility for the Essential Plan terminated as of December 31, 2017, because you did not submit sufficient documentation to prove her citizenship status in a timely manner.

However, you testified that you and your spouse never received any notice indicating that your spouse was terminated from her Essential Plan as of December 31, 2017. You further testified you did not find out that your spouse did not have coverage until she went to [REDACTED], at which time you were advised by [REDACTED] she had no health insurance.

According to your NYSOH account and testimony, you elected to receive all your notices from NYSOH via regular mail and there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable. Therefore, it is determined that NYSOH properly notified you of your spouse's termination from the Essential Plan as of December 31, 2017.

Therefore, the December 17, 2017 eligibility determination and the December 18, 2017 disenrollment notices are AFFIRMED.



The second issue under review is whether NYSOH properly determined that your spouse's enrollment in the Essential Plan was effective February 1, 2018.

According to your NYSOH account and testimony, you uploaded copies of your spouse's passport, birth certificate, social security card, and marriage license on January 12, 2018 (see Documents [REDACTED]).

On January 12, 2018, her citizenship documents were verified, her application systematically run and she was able to enroll in a health plan that day. On January 13, 2018, NYSOH issued an eligibility determination notice, based on your January 12, 2018 updated application, stating that your spouse was eligible to enroll in the Essential Plan, effective February 1, 2018.

Also on January 13, 2018, NYSOH issued a plan enrollment notice stating in part that your spouse's health coverage will not begin until she picks a plan.

The record reflects that you enrolled your spouse in an Essential Plan on January 14, 2018, with an effective date of February 1, 2018.

Generally, the date on which the 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 after the fifteenth day of a month goes into effect on the first day of the second following month.

Since you selected your spouse's Essential Plan on January 14, 2018, it must take effect on the first day of the month following January 2018; that is, on February 1, 2018.

Therefore, the January 15, 2018 plan enrollment notice which states that your spouse's Essential Plan is effective as of February 1, 2018 is correct and must be AFFIRMED.

## **Decision**

The December 17, 2017 eligibility determination and the December 18, 2017 disenrollment notices are AFFIRMED.

The January 15, 2018 plan enrollment notice is AFFIRMED.

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

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

This Decision does not change your spouse's eligibility for or enrollment in the Essential Plan.

Your spouse was properly disenrolled from the Essential Plan, effective December 31, 2017, for failure to submit sufficient proof of her citizenship status.

The next effective date of your spouse's Essential Health Plan properly began as of February 1, 2018.

Your spouse had no health insurance coverage through NYSOH in January 2018.

## **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 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 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

### **Summary**

The December 17, 2017 eligibility determination and the December 18, 2017 disenrollment notices are AFFIRMED.

This Decision does not change your spouse's eligibility for or enrollment in the Essential Plan.

Your spouse was properly disenrolled from the Essential Plan, effective December 31, 2017, for failure to submit sufficient proof of her citizenship status.

The next effective date of your spouse's Essential Health Plan properly began as of February 1, 2018.

Your spouse had no health insurance coverage through NYSOH in January 2018.

### **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)**

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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।

### **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 b&tumi 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.

### **אַײַדיש (Yiddish)**

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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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