



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: AP000000027371

[REDACTED]

[REDACTED]

On March 27, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 14, 2017 eligibility determination notice and November 14, 2017 disenrollment 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.

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: AP000000027371

[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 eligibility for the Essential Plan ended effective November 30, 2017?

Procedural History

On August 10, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for the Essential Plan for a limited time, effective September 1, 2017, and that your spouse was eligible for the Essential Plan for a limited time, effective September 1, 2017. The notice directed you to provide documentation of your household's income by November 7, 2017 in order to confirm your and your spouse's eligibility for financial assistance with health insurance.

Also on August 10, 2017, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in an Essential Plan with a plan enrollment start date of September 1, 2017.

On August 15, 2017, you uploaded income documentation to your NYSOH account.

On August 16, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account.

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On August 24, 2017, NYSOH redetermined your eligibility for financial assistance with health insurance.

On August 25, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for the Essential Plan for a limited time, effective October 1, 2017, and that your spouse was eligible for the Essential Plan for a limited time, effective October 1, 2017. This notice directed you to provide documentation of your household's income by November 7, 2017 in order to confirm your and your spouse's eligibility for financial assistance with health insurance.

On September 7, 2017, you uploaded income documentation to your NYSOH account.

Also on September 7, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account. No notice was issued to you to inform you of this determination.

On November 14, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible for up to \$585.00 per month in advance payments of the premium tax credit as well as cost-sharing reductions if you enrolled in a silver level qualified health plan, both effective December 1, 2017, and that you no longer qualified for the Essential Plan as of November 30, 2017. The notice stated that you and your spouse were eligible for advance payments of the premium tax credit because federal and state data sources showed that your household income was between \$27,821.00 and \$80,640.00.

Also on November 14, 2017, NYSOH issued a disenrollment notice stating that your enrollment in the Essential Plan would end as of November 30, 2017, because you were no longer eligible to remain in your plan.

On December 4, 2017, you updated your application for financial assistance.

On December 5, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan, effective January 1, 2018.

Also on December 5, 2017, NYSOH issue a notice of enrollment confirmation, based on your plan selection on December 4, 2017, stating that you were enrolled in an Essential Plan effective January 1, 2018.

On January 18, 2018, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan for the month of December 2017.

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) You testified, and your application indicates, that you receive all of your notices from NYSOH via regular mail.
- 2) You testified that you updated your household's application for financial assistance with a navigator in August 2017. At that time, you were advised that you would need to submit income documentation, and you testified that you provided this documentation to your navigator.
- 3) You testified that you could not recall if you received the August 10, 2017 notice stating that you needed to provide documentation of your household's income.
- 4) On August 15, 2017, income documentation was uploaded to your NYSOH account consisting of your spouse's paystubs for pay date July 14, 2017 for a gross pay amount \$781.00 and year to date gross income of \$5,487.92, and your biweekly paystubs for pay dates July 14, 2017 and July 28, 2017 were uploaded to your NYSOH account.
- 5) On August 16, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient proof of your household income as you had only submitted one outdated paystub for your spouse.
- 6) On August 24, 2017, NYOSH redetermined your eligibility for financial assistance.
- 7) You testified that you could not recall if you receive the August 25, 2017 notice stating that you needed to provide documentation of your household's income.
- 8) On September 7, 2017, you uploaded your spouse's paystub for pay date August 11, 2017 for a gross pay amount of \$743.38 and a gross year to date amount of \$6,231.30 to your NYSOH account.
- 9) Also on September 7, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient proof of your household income as you had not submitted four consecutive weeks of pay stubs.

- 10) There is no notice contained within your NYSOH account advising you that the September 7, 2017 documentation submission was insufficient to resolve the inconsistency in your account.
- 11) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 12) You testified that you are paid every second Friday.
- 13) You testified that your spouse only works one week per month and that he is only paid the fourth Friday of each month. You further testified that your spouse only receives a paycheck if he works during a biweekly pay period, otherwise he receives no paycheck.
- 14) Your NYSOH account indicates that on November 13, 2017 your application was run and you were found no longer eligible for the Essential Plan as of November 30, 2017.
- 15) You testified that you did not know that you needed to submit additional documentation of your income until [REDACTED] when you went to a doctor's appointment and were advised that your coverage had ended. You contacted NYSOH that same day.
- 16) You updated the income information in your NYSOH account on December 4, 2017.
- 17) You testified that you are seeking reinstatement in your Essential Plan as of December 1, 2017. You testified that you are only appealing with regard to your coverage and not your spouse's.

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

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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)).

An applicant is required to attest to their household's projected annual income. (45 CFR § 155.320(c)(3)(ii)(B)). For all individuals whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security in order to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant in order to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your eligibility for the Essential Plan ended effective November 30, 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 household's projected

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annual income. For individuals seeking enrollment in the Essential Plan, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

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.

In the eligibility determination issued on August 10, 2017, you were advised that you were eligible for the Essential Plan for a limited time and that you needed to confirm your household's income before November 7, 2017.

On August 15, 2017, you submitted income documentation to your NYSOH account and on August 16, 2017, NYSOH determined that this income documentation was insufficient to resolve the inconsistency in your account.

In the eligibility redetermination notice issued on August 25, 2017, you were advised that you were eligible for the Essential Plan for a limited time and that you needed to confirm your household's income before November 7, 2017.

You testified that you did not recall if you received any notice from NYSOH telling you that you needed to provide income documentation to confirm your 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 the income you listed in the account.

On September 7, 2017, you uploaded additional income documentation to your NYSOH account.

Also on September 7, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account.

There is no indication that NYSOH ever notified you that the documentation you submitted on September 7, 2017 was insufficient and that additional income documentation was required in order to confirm your eligibility for financial assistance.

Additionally, the September 7, 2017 income documentation you submitted indicates that you are paid on a monthly basis, rather than a biweekly basis, as is indicated by reviewing the gross year to date pay amounts and you had already

submitted two of your biweekly paystubs by this time. Therefore, this documentation was improperly invalidated.

Since NYSOH failed to provide you with notice that it had determined that the September 7, 2017 income documentation submission was invalid, and NYSOH improperly invalidated the September 7, 2017 income documentation, the November 14, 2017 eligibility determination notice and the November 14, 2017 disenrollment notice, stating that you were no longer eligible for the Essential Plan is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan as of December 1, 2017.

Decision

The November 14, 2017 notice of eligibility determination is RESCINDED.

The November 14, 2017 notice of disenrollment is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan as of December 1, 2017.

Effective Date of this Decision: April 4, 2018

How this Decision Affects Your Eligibility

NYSOH erred in terminating your Essential Plan effective November 30, 2017.

Your case is being sent back to NYSOH to reinstate your coverage in your Essential Plan as of December 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.

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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

Summary

The November 14, 2017 notice of eligibility determination is RESCINDED.

The November 14, 2017 notice of disenrollment is RESCINDED.

NYSOH erred in terminating your Essential Plan effective November 30, 2017.

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Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan as of December 1, 2017.

Your case is being sent back to NYSOH to reinstate your coverage in your Essential Plan as of December 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 sre wo, fre 1-855-355-5777. ye&etumi 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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