



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

Notice of Decision

Decision Date: March 21, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027517

[REDACTED]

Dear [REDACTED],

On March 13, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 20, 2017 eligibility determination notice and November 20, 2017 enrollment confirmation 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: March 21, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027517

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that your eligibility for and enrollment in an Essential Plan was effective January 1, 2018?

Procedural History

On November 20, 2017, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your November 19, 2017 application, stating that you were eligible to enroll in the Essential Plan, effective January 1, 2018.

Also on November 20, 2017, NYSOH issued a notice of enrollment, based on your plan selection on November 19, 2017, stating that you were enrolled in an Essential Plan, and that your plan would start January 1, 2018.

On January 19, 2018, you spoke to NYSOH's Account Review Unit and appealed the start date of your eligibility for and enrollment in the Essential Plan insofar as it did not begin October 1, 2017.

On March 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) You testified that you first tried to apply for health insurance through NYSOH in mid to late August 2017, as your Medicaid through your local department of social services was ending as of August 31, 2017.
- 2) You testified that you encountered an error message when you attempted to submit your application. You went on to testify that you contacted NYSOH and were advised that a ticket was being put in with NYSOH's technical team.
- 3) You testified that you followed up with NYSOH regarding the ticket, but were never advised when the issue was resolved.
- 4) During the hearing, you gave permission for the Hearing Officer to listen to phone calls you had with NYSOH.
- 5) On August 29, 2017, you placed a phone call to NYSOH. A review of that phone call reveals that you were calling to find out how to go about getting coverage through NYSOH. The NYSOH representative advised you that you should submit an application for health insurance to find out which plan you were eligible for. You requested the website for being able to submit an application on-line and the NYSOH assisted you in navigating to the website.
- 6) On September 28, 2017, you placed two phone calls to NYSOH. A review of the recordings of those phone calls reveals that you were calling because of an error message you receive on your account when trying to complete your application. The first NYSOH representative began assisting you with this issue, encountered the same message, and then put you on hold to investigate further, at which point the call recording ends. The second NYSOH representative encountered the same error message in your account and submitted a ticket to the NYSOH technical team.
- 7) On November 18, 2017, you placed a phone call to NYSOH to follow-up on the status of your application. A review of the recording of that phone call reflects that you were still encountering an error when trying to submit your application. The NYSOH representative advised you that there was currently an issue with the Social Security Administration, and recommended that you wait a few hours and then try to submit your application again.
- 8) You submitted an application to NYSOH for financial assistance on November 19, 2017.

- 9) Your NYSOH account reflects that you enrolled in an Essential Plan on November 19, 2017.
- 10) There is no indication that NYSOH ever contacted you to advise you that the error on your account had been resolved.
- 11) NYSOH uploaded an evidence packet to your NYSOH account on February 23, 2018. On page three of the evidence packet under item 7 which is titled [REDACTED] is a notation indicating that on September 28, 2017 a "[REDACTED]" was filed which was resolved on December 26, 2017 with the resolution of "Defect resolved and closed. Consumer has plan selection submitted".
- 12) You testified that you are seeking to be enrolled in the Essential Plan for the month of October 2017 or November 2017 as you are seeking to avoid a tax penalty.

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

Applicable Law and Regulations

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 issue is whether NYSOH properly determined that your enrollment in the Essential Plan was effective January 1, 2018.

Your NYSOH account indicates that you submitted your NYSOH application on November 19, 2017. As a result, you were found eligible for the Essential Plan as of January 1, 2018 and enrolled into a plan that day.

However, the credible evidence of record reflects that as early as September 28, 2017 you were attempting to submit an application for financial assistance with health insurance, but were unable to complete your application as the result of a technical defect on your account.

An NYSOH representative submitted a ticket for resolution of this technical issue on September 28, 2017, however, no NYSOH representative ever contacted you to advise that the issue had been resolved and the resolution date contained within the evidence packet is listed as December 26, 2017.

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.

As you were prevented from submitting an application on September 28, 2017 due to a technical defect in your account, we must assume that the information provided in your November 19, 2017 application is the information that would have been used had you been able to submit a completed application on September 28, 2017.

Had your application been submitted on September 28, 2017, you could have been determined eligible for the Essential Plan and selected a plan for enrollment as early as that day. Had you selected an Essential Plan for enrollment on September 28, 2017, your plan would have taken effect on the first day of the second month following September 2017; that is, on November 1, 2017.

Therefore, the November 20, 2017 eligibility determination notice and the November 20, 2017 enrollment confirmation notice are MODIFIED to state that your eligibility for and enrollment in the Essential Plan were effective as of November 1, 2017.

Your case is RETURNED to NYSOH to begin your enrollment in your Essential Plan as of November 1, 2017.

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).

Decision

The November 20, 2017 eligibility determination notice is MODIFIED to state that your eligibility for the Essential Plan was effective as of November 1, 2017.

The November 20, 2017 enrollment confirmation notice is MODIFIED to state that your enrollment in your Essential Plan began as of November 1, 2017.

Your case is RETURNED to NYSOH to begin your enrollment in your Essential Plan as of November 1, 2017.

Effective Date of this Decision: March 21, 2018

How this Decision Affects Your Eligibility

The effective date of your Essential Plan should have been November 1, 2017.

Your case is being sent back to NYSOH to begin your enrollment in your Essential Plan as of November 1, 2017.

You will be responsible for any premiums due for the months you are enrolled into a plan.

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 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 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 20, 2017 eligibility determination notice is MODIFIED to state that your eligibility for the Essential Plan was effective as of November 1, 2017.

The November 20, 2017 enrollment confirmation notice is MODIFIED to state that your enrollment in your Essential Plan began as of November 1, 2017.

Your case is RETURNED to NYSOH to begin your enrollment in your Essential Plan as of November 1, 2017.

The effective date of your Essential Plan should have been November 1, 2017.

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).

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।

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).

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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