



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

Notice of Decision

Decision Date: February 8, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027534

[REDACTED]
[REDACTED]
[REDACTED]

On February 7, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 10, 2017 eligibility determination notice, January 20, 2018 eligibility determination notice, and January 20, 2018 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 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
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: February 8, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027534



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 eligibility for the Essential Plan ended effective December 31, 2017?

Did NYSOH properly determine that your enrollment in a qualified health plan and the application of advance payments of the premium tax credit (APTC) were effective no earlier than March 1, 2018?

Did NYSOH properly determine that your eligibility for and enrollment in the Essential Plan were effective no earlier than March 1, 2018?

Procedural History

On September 6, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, for a limited time, effective October 1, 2017. The notice further directed you to provide documentation confirming your income before December 4, 2017.

Also on September 6, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in an Essential Plan 1 with a \$20.00 monthly premium, effective October 1, 2017.

On December 10, 2017, based on a system update, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost. The notice stated that you were not eligible to enroll in the

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Essential Plan because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective January 1, 2018. The notice also stated that you no longer qualified for the Essential Plan as of December 31, 2017. The notice also stated that you needed to pick a plan.

Also on December 10, 2017, NYSOH issued a disenrollment notice stating that your enrollment in the Essential Plan 1 would end as of December 31, 2017, because you were no longer eligible to remain in your plan.

On January 19, 2018, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible to receive up to \$372.00 per month in APTC and cost-sharing reductions, effective March 1, 2018, and you selected a silver-level qualified health plan for enrollment.

Also on January 19, 2018, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan as of December 31, 2017 and the March 1, 2018 start for the silver-level qualified health plan. You requested a January 1, 2018 start date for the silver-level qualified health plan.

On January 20, 2018, NYSOH issued an eligibility determination notice, based on your January 19, 2018 application, stating that you were eligible to receive up to \$372.00 per month in APTC and cost-sharing reductions, effective March 1, 2018.

Also on January 20, 2018, NYSOH issued a plan enrollment notice confirming, your January 19, 2018 selection of a silver-level qualified health plan with a monthly premium responsibility of \$151.96, after your APTC of \$372.00 was applied, both effective March 1, 2018.

On January 23, 2018, you requested an expedited appeal.

On January 31, 2018, NYSOH received a document from your physician in support of your expedited appeal request.

Also on January 31, 2018, your request for an expedited appeal was granted.

On February 3, 2018 you submitted an updated application for health insurance.

On February 4, 2018, NYSOH issued an eligibility determination notice, based on your February 3, 2018 application, stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective March 1, 2018.

Also on February 4, 2018, NYSOH issue a plan enrollment notice, stating that you were reenrolled in Essential Plan 1, effective March 1, 2018.

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Also on February 4, 2018, NYSOH issued a disenrollment notice stating that your enrollment in the silver-level qualified health plan would end as of March 1, 2018, because you were no longer eligible to remain in that plan.

On February 7, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing you requested to amend your appeal to reflect that you had recently been determined eligible for the Essential Plan that would start March 1, 2018. You requested that your Essential Plan start February 1, 2018. 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) According to your NYSOH account and your testimony, you updated your application on September 5, 2017 and were found conditionally eligible for the Essential Plan, effective October 1, 2017.
- 3) You testified that you did not receive any notices stating that your eligibility for the Essential Plan was only conditional and that you needed to provide documentation of your household's income by December 4, 2017.
- 4) According to your NYSOH account and your testimony, you updated your mailing address on September 5, 2017. According to your NYSOH account, all notices from that that date and afterwards were sent to the address you provided; [REDACTED]
[REDACTED]
- 5) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 6) Your NYSOH account indicates that on December 9, 2017 your application was updated based on information received from state and federal data sources. Based on that system updated application, you were determined eligible to purchase a qualified health plan at full cost and you were found no longer eligible for the Essential Plan as of December 31, 2017.
- 7) You testified that you did not know your Essential Plan was canceled until you went to a medical facility on January 19, 2018, for a regularly

scheduled procedure and you were informed that you did not have insurance coverage.

- 8) You testified that on January 19, 2018 you called your health plan and they in turn told you to contact NYSOH.
- 9) You testified that you first learned you were required to submit documentation of your income during the January 19, 2018 conversation with NYSOH representatives.
- 10) According to your NYSOH account, you submitted an updated application on January 19, 2018 and you were determined eligible for \$372.00 per month in APTC and cost-sharing reductions, effective March 1, 2018.
- 11) According to your NYSOH account and your testimony, on January 19, 2018, you selected a silver-level qualified health plan with a plan start date and APTC application, effective March 1, 2018.
- 12) According to your NYSOH account, you updated your application on February 3, 2018 and were determined eligible for the Essential Plan with a \$20.00 monthly premium, effective March 1, 2018.
- 13) According to your NYSOH account, on February 4, 2018, NYSOH issued an enrollment notice stating that you had been enrolled in Essential Plan 1 with the same health plan with the insurance company, (BlueCross BlueShield of Western New York) that you had previously.
- 14) According to your NYSOH account and your testimony, you did not have health insurance for the months of January 2018 and February 2018.
- 15) You testified that you did not incur any medical bills for the month of January 2018, but you have incurred medical bills in February 2017.
- 16) You testified that you are seeking enrollment in your Essential Plan 1 as of February 1, 2018.

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

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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)).

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)).

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Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health 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)). 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)).

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. 18, as approved January 2017; 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 first issue under review is whether NYSOH properly determined that your 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 household's projected 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 September 6, 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 December 4, 2017.

You testified that you did not receive 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. The record also reflects that on September 5, 2017 when you updated your account, you also updated your mailing address. The record reflects that the notices dated September 6, 2017 and thereafter were all addressed to [REDACTED], which was the updated address you provided.

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.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine 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. As no documentation was received by the December 4, 2017 deadline, NYSOH redetermined your household's eligibility on December 9, 2017 based on information received from state and federal data sources. Based on that updated system application, you were determined newly eligible to purchase a qualified health plan at full cost and were no longer eligible for the Essential Plan, effective January 1, 2018.

Accordingly, your eligibility for the Essential Plan terminated as of December 31, 2017 because you did not submit documentation and did not adequately demonstrate that you could not provide documentation to confirm your income.

Therefore, the December 10, 2017 eligibility determination notice is AFFIRMED.

Changes made in your eligibility prior to the 15th of the month are effective at the start of the next following month. Therefore, NYSOH's December 10, 2017 disenrollment notice that states your Essential Plan 1 coverage was terminated effective December 31, 2017 is AFFIRMED.

The second issue under review is whether NYSOH properly determine that your enrollment in a silver-level qualified health plan, as well as the application of APTC, was effective no earlier than March 1, 2018.

You testified, and your account confirms, that you updated your NYSOH application on January 19, 2018. That day you selected a silver-level qualified health plan for enrollment. On January 20, 2018, NYSOH issued a plan enrollment notice based on your January 19, 2018 plan selection, stating that you

were enrolled in your silver-level qualified health plan effective March 1, 2018, and that APTC would be applied to your monthly premium effective March 1, 2018.

When an individual changes information in their application after the 15th of any month, NYSOH will make the redetermination that results from the change effective the first day of the second following month. Additionally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. 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 silver-level qualified health plan on January 19, 2018, it properly took effect the first day of the second month following January 2018; that is, on March 1, 2018.

Therefore, NYSOH's January 20, 2018 eligibility determination notice and enrollment confirmation notices are **AFFIRMED** because they properly began your enrollment in your silver-level qualified health plan as well as your APTC on March 1, 2018.

The third issue is whether NYSOH properly determined that your eligibility for and enrollment in the Essential Plan, was effective no earlier than March 1, 2018.

The record reflects that you updated your account on February 3, 2018 and you were determined eligible for the Essential Plan with a \$20.00 monthly premium. That day NYSOH disenrolled you from your silver-level qualified health plan and enrolled you in Essential Plan 1 with BlueCross BlueShield of Western New York because that plan was with the same insurance company you had previously.

When an individual changes information in their application before the 15th of any month, NYSOH will make the redetermination that results from the change effective the first day of the following month. Additionally, the date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

Since on February 3, 2018, NYSOH selected your Essential Plan based on your previous enrollment in the plan with that insurance company, your enrollment would properly take effect on the first day of the month following February 2018; that is, on March 1, 2018.

Therefore, the February 4, 2018, eligibility determination notice, and the February 4, 2018 enrollment confirmation notice stating that your enrollment in the Essential Plan 1, with a \$20.00 monthly premium was effective March 1, 2018, are correct and they must be **AFFIRMED**.

Decision

The December 10, 2017 eligibility determination notice is AFFIRMED.

The December 10, 2017 disenrollment notice that states your Essential Plan coverage was terminated effective December 31, 2017 is AFFIRMED.

The January 20, 2018 eligibility determination notice and enrollment confirmation notices are AFFIRMED.

The February 4, 2018 eligibility determination notice and enrollment confirmation notices are AFFIRMED.

Effective Date of this Decision: February 8, 2018

How this Decision Affects Your Eligibility

NYSOH properly found you not eligible to enroll in the Essential Plan effective December 31, 2017 because you did not provide documentation of your household's income.

Your enrollment in your silver-level qualified health plan and application of APTC that was scheduled to begin March 1, 2018 was superseded by your February 3, 2018 application that resulted in your eligibility for the Essential Plan, effective March 1, 2018.

NYSOH properly found that your reenrollment in the Essential Plan was effective March 1, 2018.

If You Disagree with this Decision (Appeal Rights)

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your case was decided, the 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.

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 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
Albany, NY 12211
- By fax: 1-855-900-5557

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Summary

The December 10, 2017 eligibility determination notice is AFFIRMED.

The December 10, 2017 disenrollment notice that states your Essential Plan coverage was terminated effective December 31, 2017 is AFFIRMED.

The January 20, 2018 eligibility determination notice and enrollment confirmation notices are AFFIRMED.

The February 4, 2018 eligibility determination notice and enrollment confirmation notices are AFFIRMED.

NYSOH properly found you not eligible to enroll in the Essential Plan effective December 31, 2017 because you did not provide documentation of your household's income.

Your enrollment in your silver-level qualified health plan and application of APTC that was scheduled to begin March 1, 2018 was superseded by your February 3, 2018 application that resulted in your eligibility for the Essential Plan, effective March 1, 2018.

NYSOH properly found that your reenrollment in the Essential Plan was effective March 1, 2018.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:



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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