



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: AP000000027663

[REDACTED]

[REDACTED]

On March 28, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 24, 2018 eligibility determination and enrollment 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 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: AP000000027663



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 and enrollment in the Essential Plan was effective March 1, 2018?

Procedural History

On October 21, 2016, NYSOH issued a renewal notice, stating that you continue to qualify for health care coverage under the Essential Plan, effective January 1, 2017.

On November 18, 2016, NYSOH issued an enrollment confirmation notice, confirming your enrollment in an Essential Plan, with an enrollment start date of January 1, 2017.

On October 28, 2017, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year and that action was required. That notice stated that you qualify for a premium tax credit, with cost-sharing reductions to help pay for your health insurance coverage, effective January 1, 2018. The notice stated that you no longer qualify for Essential Plan as of December 31, 2017 because in order to qualify, you must be under 65 years of age, not qualify to enroll in other coverage, and have income below \$24,120.00. The notice stated that if you think a mistake was made about your eligibility you can call NYSOH to discuss your concerns. The notice further directed you to choose a health plan between November 16, 2017 and December 15, 2017.

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On November 17, 2017, NYSOH issued a disenrollment notice stating that your enrollment in the Essential Plan would end as of December 31, 2017, because you were no longer eligible to enroll in your plan.

On January 19, 2018, you updated your NYSOH application for health insurance and financial assistance.

On January 20, 2018, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan, effective March 1, 2018. This notice stated that you no longer qualify for Advance Premium Tax Credit with cost-sharing reductions as of February 28, 2018.

On January 23, 2018, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible to enroll in the Essential Plan and you selected a plan for enrollment.

Also on January 23, 2018, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan for the months of January and February 2018.

On January 24, 2018, NYSOH issued a notice of eligibility determination, based on your January 23, 2018 application, stating that you were eligible to enroll in the Essential Plan, effective March 1, 2018.

Also on January 24, 2018, NYSOH issued a notice of enrollment confirmation, based on your plan selection on January 23, 2018, stating that you were enrolled in an Essential Plan effective March 1, 2018.

On March 28, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed that same day.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You were determined eligible for the Essential Plan on October 21, 2016, with an effective date of January 1, 2017.
- 2) You testified that you receive your notices from NYSOH by electronic alert.
- 3) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to update your

application in order to renew your eligibility. You also did not receive any renewal notice by regular mail.

- 4) You testified that you did not know that you were disenrolled from your plan until January 2018 when you were [REDACTED] and informed you no longer had insurance.
- 5) On January 19, 2018 NYSOH received your updated application for health insurance.
- 6) You reenrolled into an Essential Plan on January 23, 2018.
- 7) You testified that you are seeking to have coverage in the Essential Plan for January and February 2018.
- 8) NYSOH uploaded an evidence packet to your NYSOH account. Contained within that evidence packet under the heading of “Electronic Notice Requirement” is a three-page memorandum dated August 21, 2017. The memorandum sets forth the federal requirements regarding use of electronic communications and asserts that NYSOH is in compliance with federal regulation and guidance on the use of electronic notices. The memorandum asserts that “[t]he electronic notification rules do not require that Exchanges track and monitor consumers actual receipt of electronic notices...”.
- 9) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the October 28, 2017 renewal notice.

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

Applicable Law and Regulations

Essential Plan Renewal

In general, NYSOH will review Essential Plan eligibility no more frequently than once every 12 months from the effective date of eligibility as long as enrollees are under age 65, not enrolled in minimum essential coverage elsewhere, remain state residents, and do not have any changes in circumstances. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12-month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or changes in circumstances (42 CFR § 600.340(a); 42 CFR

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§ 600.320(d); NY Social Services Law § 369-gg(3) and (4)(d)); New York's Basic Health Plan Blueprint, pp. 8 and 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (42 CFR § 600.340(e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (42 CFR §600.345; (NY Social Services Law § 369-gg(4)(c); 45 CFR § 155.335(g); New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>).

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)).

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 issue under review is whether NYSOH properly determined that your eligibility for and enrollment in the Essential Plan was effective March 1, 2018.

You were originally found eligible for the Essential Plan effective January 1, 2017.

Generally, NYSOH will redetermine a qualified individual's eligibility for the Essential Plan once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's October 28, 2017 renewal notice stated you were eligible for a premium tax credit with cost-sharing reductions, effective January 1, 2018. This notice stated that you no longer qualify for the Essential Plan effective December 31, 2017 but that you now qualified to receive advance payments of the premium tax credits and cost-sharing reductions. You were advised to pick a health plan prior to December 15, 2017 so that you could have coverage for January 1, 2018.

NYSOH then sent you a notice on November 17, 2017 which terminated from your Essential Plan effective December 31, 2017.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. Although NYSOH contends that it complied with federal mandates regarding electronic notices, there is no evidence in the file that NYSOH sent you an electronic alert notifying you of a new notice available in your account on October 28, 2017. You credibly testified that you did not receive an electronic alert regarding the renewal notice, which advised you that your eligibility had been redetermined and directed you to pick a plan for the upcoming year. There is also no evidence in your account documenting that any email alert was sent to you regarding the notice, that any such electronic alert failed, or that the notice was later sent to you by regular mail.

NYSOH is required to send applicants proper notice in order for applicants to take appropriate action. Since there is no evidence that NYSOH sent you an email alert, and you testified that you did not receive one, there is insufficient evidence in the record that NYSOH provided you with proper notice by electronic means that you needed to update your NYSOH account in order to continue to receive financial assistance and health insurance through NYSOH.

You testified that you did not know that you were disenrolled from your plan until January when you were [REDACTED] and informed you that you no longer had insurance. The record reflects that you first renewed your eligibility for financial assistance through NYSOH for the upcoming coverage year on January 19,

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2018, and therefore we must assume that the information you provided at that time is the information that would have been used had you been timely informed of the redetermination of eligibility, as stated in the renewal notice.

Had the information been submitted at that time, your eligibility for and enrollment in the Essential Plan would have begun on January 1, 2018.

Therefore, the January 24, 2018 notice of eligibility and January 24, 2018 notice of enrollment is MODIFIED to state that your eligibility for and enrollment in the Essential Plan was effective January 1, 2018.

Decision

The January 24, 2018 eligibility determination notice is MODIFIED to state that your eligibility for the Essential Plan was effective January 1, 2018.

The January 24, 2018 enrollment confirmation notice is MODIFIED to state that your enrollment in the Essential Plan was effective January 1, 2018.

Your case is RETURNED to NYSOH to reenroll you in your Essential Plan, effective January 1, 2018.

Effective Date of this Decision: April 4, 2018

How this Decision Affects Your Eligibility

Your eligibility for and enrollment in the Essential Plan should have been effective as of January 1, 2018.

Your case is being sent back to NYSOH to reenroll you in your Essential Plan as of January 1, 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.

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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 January 24, 2018 eligibility determination notice is MODIFIED to state that your eligibility for the Essential Plan was effective January 1, 2018.

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The January 24, 2018 enrollment confirmation notice is MODIFIED to state that your enrollment in the Essential Plan was effective January 1, 2018.

Your eligibility for and enrollment in the Essential Plan should have been effective as of January 1, 2018.

Your case is RETURNED to NYSOH to reenroll you in your Essential Plan, effective January 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:



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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