



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

Notice of Decision

Decision Date: February 1, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027707

[REDACTED]
[REDACTED],

On February 1, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 12, 2017 discontinuance notice, December 12, 2017 disenrollment notice, December 31, 2017 eligibility determination notice, and January 25, 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 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: February 1, 2018

NY State of Health Account ID: [REDACTED]
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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 eligibility for advance premium tax credit and cost-sharing reductions was effective February 1, 2018?

Did NYSOH properly determine that your enrollment in a qualified health plan was effective no earlier than March 1, 2018?

Procedural History

On September 8, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective October 1, 2017. The notice further directed you to provide documentation confirming your immigration status before December 6, 2017.

Also on September 8, 2017, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective September 1, 2017.

On September 7, 2017, you faxed immigration documentation to NYSOH.

On September 11, 2017, NYSOH invalidated the income documentation you submitted on September 7, 2017.

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On September 12, 2017, NYSOH issued a notice stating that the documentation you submitted did not conform to the information in your application. You were asked to submit additional proof to verify your immigration status by December 6, 2017.

On December 12, 2017, NYSOH issued a notice stating that, effective January 1, 2018, you were no longer eligible for health insurance through NYSOH because you did not provide information to confirm your immigration status. This eligibility was effective January 1, 2018.

Also on December 12, 2017, NYSOH issued a disenrollment notice stating that your enrollment in the Essential Plan would end on December 31, 2017, because you were no longer eligible to remain in your plan.

On December 30, 2017, you updated your NYSOH application for health insurance and financial assistance.

On December 31, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$363.00 in advance payments of the premium tax credit as well as cost-sharing reductions for a limited time, effective February 1, 2018. The notice further directed you to select a health plan, and to provide documentation confirming your immigration status and proof of income before March 30, 2018.

On January 16, 2018, you faxed immigration and income documentation to NYSOH.

On January 18, 2018, NYSOH verified the immigration documentation you submitted and determined it was sufficient to verify your immigration status. NYSOH updated your application based on this information, and then submitted an application on your behalf.

On January 19, 2018, NYSOH issued an eligibility notice, stating that you were eligible to receive up to \$363.00 in advance payments of the premium tax credit as well as cost-sharing reductions for a limited time, effective March 1, 2018. The notice further directed you to select a health plan, and to provide proof of your income before March 30, 2018.

On January 24, 2018, you selected a plan for enrollment.

Also on January 24, 2018, you contacted the NYSOH Account Review Unit and requested an appeal insofar as your enrollment in the Essential Plan ended December 31, 2017.

On January 25, 2018, NYSOH issued a letter confirming your enrollment in a qualified health plan, effective March 1, 2018.

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Also on January 25, 2018, NYSOH received your request for an expedited appeal due to your medical condition. This request was approved and you were scheduled for an expedited hearing.

On February 1, 2018, you had an expedited telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During that hearing, your appeal was amended to include an appeal of your December 12, 2017 discontinuance and disenrollment in the Essential Plan. 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 NYSOH account confirms, that you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you did not receive any electronic alerts notifying you of any notice in your NYSOH account stating that your eligibility was only conditional and that you needed to provide documentation of your income.
- 3) You testified that you submitted immigration documentation on September 9, 2017 because you were informed by your social worker that you were required to do so.
- 4) You testified that you did not receive any electronic alerts notifying you that the immigration documentation you submitted was insufficient to verify your immigration status.
- 5) Your NYSOH account reflects that no updated immigration documentation was received by December 6, 2017.
- 6) Your NYSOH account indicates that on December 11, 2017, your application was run and you were found no longer eligible for the Essential Plan as of December 31, 2017.
- 7) You testified that you did not receive any electronic alerts notifying you that your coverage with the Essential Plan was ending December 31, 2017.
- 8) You testified that you discovered your Essential Plan coverage was ending when you contacted NYSOH to update your application to reflect that you were starting employment in January 2018. You

testified that during that call, the NYSOH representative told you that your coverage in the Essential Plan was ending on December 31, 2017 because NYSOH could not verify your immigration status.

- 9) During the hearing, you gave permission for the Hearing Officer to listen to recordings of phone calls you had with NYSOH.
- 10) On December 30, 2017, you contacted NYSOH to update your application for health insurance. The NYSOH representative advised you that your enrollment in the Essential Plan ended December 31, 2017 because NYSOH could not verify your immigration status and you did not submit documentation by the deadline. You stated that you did not receive any notices from NYSOH regarding the request for additional documentation or disenrollment. Also during that call, the NYSOH representative assisted you with an application, and asked you if you wanted to select a health plan. You did not select a health plan at that time. The NYSOH representative advised you that you had until January 15, 2018 to select a health plan that would go into effect February 1, 2018 but you declined to do so because you were waiting to see if your employer offered insurance coverage.
- 11) You testified, and the record reflects, that you selected a qualified health plan on January 24, 2018
- 12) Your enrollment in that plan becomes effective March 1, 2018.
- 13) You testified and provided documentation that you are seeking health insurance coverage for the months of January 2018 and February 2018 because you have a serious health condition that requires regular life-saving medical treatment.
- 14) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the September 12, 2017 notice requesting additional documentation to verify your immigration status.

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

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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/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)).

Electronic Notices

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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)).

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)).

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 8, 2017, you were advised that you were eligible for the Essential Plan for a limited time, and that you needed to confirm your immigration status before December 6, 2017.

You testified that your social worker advised you that you needed to submit immigration documentation, and that you faxed immigration documentation to NYSOH on September 9, 2017.

NYSOH received that immigration documentation and determined it was illegible. As a result, on September 12, 2017 NYSOH issued a notice requesting that you submit additional documentation to confirm your immigration status by December 6, 2017.

The record reflects that NYSOH did not receive the requested immigration documentation before the deadline.

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 September 12, 2017. You credibly testified that you did not receive an electronic alert regarding the notice stating your immigration documentation was insufficient to verify your immigration status, which directed you to submit additional documentation to confirm the immigration status in your application. 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 by electronic means with proper notice that you needed to submit documentation of your household income.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the December 12, 2017 discontinuance and December 12, 2017 disenrollment notice stating that you are no longer eligible for the Essential Plan because you failed to submit documentation are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan for the month of January 2018.

The second issue under review is whether NYSOH properly determined that your eligibility for advance premium tax credit and cost-sharing reductions, was effective no earlier than February 1, 2018.

The record reflects that on December 30, 2017, you updated the information in your NYSOH account and submitted an application for financial assistance for health insurance.

When an individual changes information in their application on or before the fifteenth of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month. Changes made in an application on or after the sixteenth day of the month will go into effect on the first day of the second following month.

Since you submitted an application for financial assistance on December 30, 2017, your eligibility would properly be effective on the first day of the second following month after December, that is February 1, 2018.

Therefore, NYSOH's December 31, 2017 eligibility determination notice is AFFIRMED because it properly began your eligibility for advance premium tax credit and cost-sharing reductions on February 1, 2018.

The third issue under review is whether NYSOH properly determine that your enrollment in a qualified health plan was effective no earlier than March 1, 2018.

The record reflects that when you contacted NYSOH on December 30, 2017, and updated your application, however you did not select a plan for enrollment. A review of the phone recording from that day indicates that an NYSOH representative explained you needed to select a health plan by January 15, 2018 in order for that plan to go into effect on February 1, 2018 but you declined to do so because you were waiting to see if your employer offered insurance coverage.

On January 24, 2018, you updated the information in your NYSOH account and submitted a request to enroll in a qualified health plan. On January 25, 2018, NYSOH issued an enrollment confirmation notice stating that your enrollment in your qualified health plan was effective March 1, 2018 and that APTC would be applied to your monthly premium effective March 1, 2018.

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 from the first day to and including fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month will go into effect on the first day of the second following month.

Since you first selected a plan for enrollment on January 24, 2018, your enrollment would properly be effective on the first day of the second following month after January, that is March 1, 2018.

Therefore, NYSOH's January 25, 2018 enrollment confirmation notice is AFFIRMED because it properly began your enrollment in your qualified health plan as well as your advance premium tax credits on March 1, 2018.

Decision

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).

The December 12, 2017 discontinuance notice is RESCINDED.

The December 12, 2017 notice of disenrollment is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan for the month of January 2018.

The December 31, 2017 eligibility determination notice is AFFIRMED.

The January 25, 2018 enrollment confirmation notice is AFFIRMED

Effective Date of this Decision: February 1, 2018

How this Decision Affects Your Eligibility

NYSOH erred in terminating your Essential Plan effective December 31, 2017, without the proper notice.

Your case is being sent back to NYSOH to reinstate your coverage in your Essential Plan for the month of January 2018.

Your eligibility for advance payments of the premium tax credits and cost-sharing reductions properly began as of February 1, 2018.

Your enrollment in your qualified health plan, and your eligibility for advance payments of the premium tax credit properly began as of March 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.

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

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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):

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- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The December 12, 2017 discontinuance notice is RESCINDED.

The December 12, 2017 notice of disenrollment is RESCINDED.

NYSOH erred in terminating your Essential Plan effective December 31, 2017, without the proper notice.

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Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan for the month of January 2018.

The December 31, 2017 eligibility determination notice is AFFIRMED.

Your eligibility for advance payments of the premium tax credits and cost-sharing reductions properly began as of February 1, 2018.

The January 25, 2018 enrollment confirmation notice is AFFIRMED

Your enrollment in your qualified health plan, and your eligibility for advance payments of the premium tax credit properly began as of 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:



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 1-855-355-5777번으로 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 okyer& 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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