



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

Notice of Decision

Decision Date: April 19, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028312

[REDACTED]

[REDACTED]

On April 11, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 21, 2017 disenrollment notice and February 3, 2018 eligibility redetermination 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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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 properly determine that your eligibility for the Essential Plan ended effective January 31, 2018?

Did NY State of Health properly determine that your eligibility for the Essential Plan was effective March 1, 2018?

Procedural History

On September 17, 2017, NY State of Health (NYSOH) issued an eligibility redetermination notice, based on an eligibility check of your application performed by the system on September 16, 2017, 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 household's income by December 15, 2017.

Also on September 17, 2017, NYSOH issued an enrollment confirmation notice, stating that you were enrolled in an Essential Plan, effective October 1, 2017.

On October 4, 2017, you uploaded paycheck stubs to your account.

On October 23, 2017, NYSOH issued an eligibility redetermination notice, based on an eligibility check of your application performed by the system on October 22, 2017, 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 household's income by December 15, 2017.

No further documentation was uploaded to your account by December 15, 2017.

On December 21, 2017, NYSOH issued a disenrollment notice stating that your enrollment in the Essential Plan would end as of January 31, 2018 because you were no longer eligible to remain in your plan.

Also on December 21, 2017, NYSOH issued an eligibility redetermination 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 Essential Plan because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective February 1, 2018.

On February 2, 2018, you updated your NYSOH application for financial assistance with health insurance. That day, a preliminary eligibility determination was prepared stating that you were eligible to enroll in the Essential Plan for a limited time, effective March 1, 2018.

Also on February 2, 2018, you spoke to NYSOH's Account Review Unit and appealed insofar as your eligibility was determined effective March 1, 2018 and not February 1, 2018.

On February 3, 2018, NYSOH issued an eligibility redetermination notice, based on your February 2, 2018 application, stating that you were eligible to enroll in the Essential Plan for a limited time, effective March 1, 2018. The notice further directed you to provide documentation confirming your household's income by May 3, 2018.

On April 11, 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 NYSOH account confirms, that you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that the email address in your account was accurate.

- 3) You testified that you knew you needed to submit income documents and that you did so on October 4, 2017. You further testified that you did not follow-up with NYSOH to confirm whether the paycheck stubs you submitted were verified.
- 4) You testified that you did receive electronic alerts notifying you of notices in your NYSOH account, dated September 15, 2017 and October 23, 2017, stating that your eligibility was only conditional and that you needed to provide documentation of your income. You further testified that you did not think that the October 23, 2017 eligibility redetermination notice in your account applied to you because you had already submitted income documentation.
- 5) Your NYSOH account indicates that on December 20, 2017 your eligibility was rerun and you were found no longer eligible for the Essential Plan as of January 31, 2018.
- 6) You testified that you are seeking for coverage in your Essential Plan be made effective February 1, 2018.
- 7) You testified that you enrolled into the Essential Plan on March 1, 2018 and that, at the time of the hearing, you had health insurance coverage.
- 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 23, 2017 eligibility redetermination notice.

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/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 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 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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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 first issue under review is whether NYSOH properly determined that your eligibility for the Essential Plan ended effective January 31, 2018.

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 redetermination notice issued on September 15, 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 15, 2017.

On October 4, 2017, you uploaded paycheck stubs to your account. However, those documents were not verified as proof of your household income and, on October 23, 2017, NYSOH issued another eligibility redetermination notice that 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 15, 2017.

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

The record reflects that you elected to receive alerts regarding notices from NYSOH electronically. There is 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. Although there

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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 23, 2017, NYSOH contends that it complied with federal mandates regarding electronic notices. Additionally, you testified that you received the October 23, 2017 eligibility redetermination notice, but thought that it did not apply to you because you had already submitted income documentation. However, you testified that you did not follow-up with NYSOH to confirm whether your submitted paycheck stubs had been verified.

NYSOH is required to send applicants proper notice in order for applicants to take appropriate action. Although there is no evidence in your account that NYSOH sent you an email alert, NYSOH's contention that it complied with federal mandates, and your testimony that you received both the alert and the October 23, 2017 eligibility redetermination notice from NYSOH but failed to follow-up, establishes sufficient evidence in the record to conclude that NYSOH alerted you with proper notice by electronic means that you needed to submit income documentation in order to confirm your eligibility for financial assistance with health insurance through NYSOH.

Since you were made aware of and did receive proper notice that there was an inconsistency in your NYSOH account, the December 21, 2017 disenrollment notice stating that you are no longer eligible for the Essential Plan because you failed to submit documentation is **AFFIRMED**.

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

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. 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.

On February 2, 2018 you submitted an updated application for financial assistance with health insurance and NYSOH made an eligibility redetermination that same day. For an eligibility redetermination made February 2, 2018, NYSOH must implement any updates in eligibility to the Essential Plan effective the first day of the following month; that is March 1, 2018.

Since the February 3, 2018 eligibility redetermination notice properly made your eligibility to enroll in the Essential Plan for a limited time effective March 1, 2018, it is correct and is **AFFIRMED**.

Decision

The December 21, 2017 disenrollment notice is AFFIRMED.

The February 3, 2018 eligibility redetermination notice is AFFIRMED.

Effective Date of this Decision: April 19, 2018

How this Decision Affects Your Eligibility

This case does not affect your eligibility.

NYSOH properly disenrolled you from your Essential Plan effective January 31, 2018.

NYSOH properly determined that you were eligible to enroll in the Essential Plan effective 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 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

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).

- 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 December 21, 2017 disenrollment notice is AFFIRMED.

The February 3, 2018 eligibility redetermination notice is AFFIRMED.

This case does not affect your eligibility.

NYSOH properly disenrolled you from your Essential Plan effective January 31, 2018.

NYSOH properly determined that you were eligible to enroll in the Essential Plan effective March 1, 2018.

Legal Authority

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

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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。我们可以为您免费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.

(Bengali)

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1-855-355-5777

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. yebetumi 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.

אַײַדיש (Yiddish)

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).

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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