

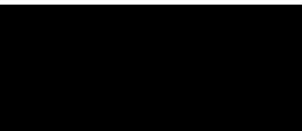


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: May 3, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028813



Dear [REDACTED]

On April 25, 2018 you appeared by telephone at a hearing on your appeal of NY State of Health's February 13, 2018 eligibility redetermination and enrollment confirmation 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: May 3, 2018

NY State of Health Account ID: [REDACTED]
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Issue

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health provide a timely determination of your eligibility as of February 12, 2018?

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

Procedural History

On November 8, 2017, NY State of Health (NYSOH) issued an eligibility determination, based on your November 7, 2017 application, stating that you and your husband may be able to enroll in coverage if you and he qualify for a Special Enrollment Period. The notice also stated that if you both qualified for a Special Enrollment Period you both are eligible for advance payment for a premium tax credit up to \$710.00 per month for a limited time. The notice further stated that you both were eligible for a limited time because when NYSOH checked state, federal and other data sources for income you and your family may have received this year, it could not verify what you reported and you were both directed to submit proof of income by February 5, 2018.

On January 3, 2018, NYSOH uploaded documents that you submitted as proof of your household's income.

Also, on January 3, 2018, a portion of the documents you submitted as proof of your and your husband's income were invalidated.

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).

On January 4, 2018, NYSOH issued a notice stating that the documentation you had submitted was insufficient to resolve the request and that additional information was still required to confirm your eligibility and/or make an eligibility determination.

No further documentation was submitted or follow-up performed regarding your documentation before the February 5, 2018 deadline.

On February 12, 2018, you submitted an updated application for financial assistance with health insurance. That same day, a preliminary eligibility determination was prepared with regard to that application, stating that you were eligible to enroll in an Essential Plan, effective March 1, 2018.

Also on February 12, 2018, you contacted NYSOH's Account Review Unit and requested an appeal insofar as the start date for your Essential Plan enrollment was March 1, 2018 and not February 1, 2018.

On February 13, 2018, NYSOH issued an eligibility redetermination notice, stating that you were eligible to enroll in an Essential Plan, effective March 1, 2018.

On February 13, 2018, NYSOH issued an enrollment confirmation notice stating that you were enrolled in an Essential Plan and that your plan would start March 1, 2018.

On April 25, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you gave permission to the Hearing Officer to listen to your recorded phone calls with NYSOH. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) You testified that you are appealing only your enrollment start date and not your husband's.
- 2) The record reflects that you and your husband intended to file your income tax return as married filing jointly and that you would claim one dependent on that return.
- 3) The application submitted on November 7, 2017 indicated that you had a household income of \$43,424.00, consisting of \$17,000.00 of earned income for yourself and \$26,424.00 for your husband from his \$24,132.00

Social Security benefit payment and \$2,292.00 in additional pension annuity income.

- 4) You testified that when you first submitted your application for financial assistance with health insurance, you had been unsure of your household's income because you and your husband had started a small business and did not know what the income would be.
- 5) On November 8, 2017, NYSOH issued an eligibility determination notice stating, in part, that you and your husband had to submit proof of income to confirm your eligibility. On page 16 of that notice, a section labeled "Request for Additional Information – Documentation List" indicates that self-employment income can be proven by "[d]etailed records of business earnings and expenses (e.g., business bank account records, invoices, checks for the last three (3) months." The notice further indicated on page 17 that pension annuity income can be proven by "1099-R or documentation of the distribution amount from the financial institution."
- 6) The record reflects that on January 3, 2018, documents that you sent to NYSOH were uploaded. Those documents included, in part, an income statement for [REDACTED] for 11 months, ending November 30, 2017. No 1099-R or other documentation of your husband's pension annuity income was submitted.
- 7) On January 4, 2018, NYSOH issued a notice stating that the documentation you had submitted was insufficient to resolve the request and that additional information was still required to confirm your eligibility and/or make an eligibility determination. On page 5 of this notice, a section labeled "Request for Additional Information – Documentation List" indicates the acceptable proofs of income, similar to the November 8, 2017 eligibility determination notice.
- 8) On January 17, 2018, you called NYSOH to check on the status of your document verification. A review of the phone call indicates that the NYSOH representative told you that the documentation had not been verified and that he would forward the documentation to the verification department.
- 9) The application submitted on February 12, 2018 indicated that you had a household income of \$29,191.00, consisting of \$2,767.00 in earned income for you and \$26,424.00 for your husband from his \$24,132.00 Social Security benefit payment and \$2,292.00 in additional pension annuity income.
- 10) You testified, and the record reflects, that you selected an Essential Plan on February 12, 2018, with an enrollment start date of March 1, 2018.

- 11) You testified that you were without health insurance coverage from November 2017 to March 2018. You further testified that you had medical bills for the month of February 2017.
- 12) You testified that you felt that your enrollment in the Essential Plan should have begun before March 1, 2018 because you had submitted documents on time and NYSOH stalled the process.

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

Applicable Law and Regulations

Timely Notice of Essential Plan Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify the applicant that more information is needed to complete the application (45 CFR § 155.310(f)(1)).

NYSOH uses the same timeliness standards for eligibility determinations for the Essential Plan as for Medicaid (42 CFR § 600.320(b)). NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR § 155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR § 155.315(f) 42 CFR § 435.952).

Essential Plan Effective Date

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).

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); *see also* 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The first issue is whether NYSOH provided you with timely determination of your Essential Plan eligibility as of February 12, 2018.

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income.

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

You submitted an application for financial assistance with health insurance on November 7, 2017. The income amount in this application, \$43,424.00, did not match state, federal, and other data sources. As a result, NYSOH asked that you submit additional documentation to confirm your income. Your application indicated that your household income included self-employment income and pension annuity income. For self-employment income, you were instructed, in part, that detailed records of business earning and expenses for the past three months would serve as proof. For pension annuity income, you were instructed, in part, that a 1099-R form or documentation of the distribution amount would serve as proof.

On January 3, 2018, documents that you sent to NYSOH were uploaded. Although you submitted an income statement for your business, it was for eleven months and not three months as requested. No documentation to prove the pension annuity income was submitted. As a result, on January 4, 2018, NYSOH

issued a notice that the documentation submitted was insufficient proof of income.

No further documentation was submitted as proof of the income in your November 7, 2018 application.

On February 12, 2018, you submitted an updated application for financial assistance with health insurance to NYSOH. The income amount in this application, \$29,191.00, was in accord with NYSOH's state, federal, and other data sources and, thus, it was accepted. Therefore, your application was considered complete as of February 12, 2018 for purposes of issuing an eligibility determination.

NYSOH must provide Medicaid and Essential Plan applicants notice of their eligibility determination within 45 days from the date of the completed application. To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of the completed application to the date NYSOH notifies the applicant of its decision.

NYSOH issued an eligibility redetermination notice on February 13, 2018 that stated that you were eligible for the Essential Plan, effective March 1, 2018. Since NYSOH issued an eligibility determination within 45 days from the date that your application was considered complete, NYSOH provided you with timely determination of your Essential Plan eligibility.

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

The date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

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

The February 12, 2018 application was considered complete for purposes of issuing an eligibility determination and you selected an Essential Plan that same day, so your enrollment properly took effect on the first day of the following month; that is, on March 1, 2018.

Therefore, the February 13, 2018 eligibility redetermination and enrollment confirmation notices stating that your enrollment in the Essential Plan was effective March 1, 2018, are correct and must be AFFIRMED.

It is noted that you testified that, on January 17, 2018, a NYSOH representative indicated to you that the documents you submitted had not yet been verified. However, NYSOH issued a notice on January 4, 2018 that the documentation you submitted had been reviewed and was insufficient proof of income. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. Furthermore, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable. Therefore, NYSOH properly notified you that additional documentation was needed to confirm your reported household income.

Although the NYSOH representative provided you with incorrect information, credible evidence in the record supports that you were notified on or about January 4, 2018 of the insufficiency of your submitted documentation. Furthermore, assuming you could be determined eligible to enroll in a plan on the date of your follow-up phone call, January 17, 2017, then the enrollment would properly take place on the first day of the second following month; which would still be March 1, 2018.

Decision

The February 13, 2018 eligibility redetermination and enrollment confirmation notices are **AFFIRMED**.

Effective Date of this Decision: May 3, 2018

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

The effective date of your Essential Plan is 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.

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).

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 February 13, 2018 eligibility redetermination and enrollment confirmation notices are **AFFIRMED**.

This decision does not change your eligibility.

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 effective date of your Essential Plan is 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 1-855-355-5777 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 مجانًا.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&etumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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).