



STATE OF NEW YORK
DEPARTMENT OF HEALTH
PO Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: May 3, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029279



Dear [REDACTED]

On April 17, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 27, 2017 discontinuance and disenrollment notices, and January 17, 2018 eligibility determination 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
PO 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(b).

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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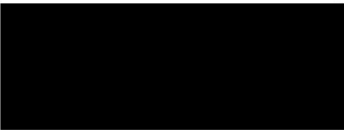


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DEPARTMENT OF HEALTH
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Decision

Decision Date: May 3, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029279



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 you were no longer eligible for and disenrolled from your Essential Plan, effective February 1, 2018?

Procedural History

On December 11, 2017, you submitted an application for financial assistance in paying for health insurance to NYSOH. That application listed your residential and mailing address as [REDACTED]

On December 12, 2017, NYSOH issued a notice confirming that you elected to receive information about your account from NYSOH by email. That notice was addressed to you at [REDACTED]

Also on December 12, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective January 1, 2018. That notice was addressed to you at [REDACTED]

Also on December 12, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in the Essential Plan with a January 1, 2018 coverage start date. That notice was addressed to you at [REDACTED]

Finally, on December 12, 2017, NYSOH issued a notice of change in mailing address which stated, "We have received information from the U.S. Postal Service that your address has changed." That notice was addressed to you at [REDACTED]

On December 21, 2017, the December 12, 2017 notice confirming your selection of electronic communication in your NYSOH account was returned to NYSOH as undeliverable. The sticker on the envelope of the returned mail said "return to sender" and listed your address as being in [REDACTED]

On December 26, 2017, your NYSOH account was updated by an NYSOH representative to state that your residential and mailing address was [REDACTED]

On December 27, 2017, NYSOH issued a discontinuance notice stating that you were no longer eligible for health insurance through NYSOH effective February 1, 2018, because "[y]ou are not a resident of New York State." This notice was addressed to you at [REDACTED]

Also on December 27, 2017, NYSOH issued a disenrollment notice stating that your coverage in the Essential Plan would end on January 31, 2018 because you were no longer eligible to enroll in health insurance through NYSOH. This notice was also addressed to you at [REDACTED]

Finally, on December 27, 2017, NYSOH issued a notice of change in mailing address which stated, "You have updated your mailing address in your account. All notices about your eligibility and coverage with NY State of Health will be mailed to this new address." This notice was addressed to you at [REDACTED]

On January 16, 2018, you submitted an updated application for financial assistance to NYSOH. That application lists your residential and mailing address as [REDACTED]

On January 17, 2018, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective March 1, 2018. This notice was addressed to you at [REDACTED]

Also on January 17, 2018, NYSOH issued an enrollment confirmation notice stating that you were enrolled in the Essential Plan with a March 1, 2018 coverage start date. This notice was also addressed to you at [REDACTED]

Finally, on January 17, 2018, NYSOH issued a notice of change in mailing address which stated, "You have updated your mailing address in your account. All notices about your eligibility and coverage with NY State of Health will be

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mailed to this new address.” This notice was addressed to you at [REDACTED]
[REDACTED]

On February 23, 2018, you spoke to NYSOH’s Account Review Unit and appealed insofar as you did not have Essential Plan coverage for the month of February 2018.

On April 17, 2018, you had a telephone hearing with a Hearing Officer from the NYSOH Appeals Unit. The record was held open to allow you time to submit proof of your New York State residency.

On April 24, 2018, NYSOH received your supporting documents by upload to your NYSOH account. Those documents, a copy of a paycheck dated November 24, 2017 and a copy of your valid New York State driver’s license, were incorporated into the record as Appellant’s [REDACTED] and [REDACTED] and the record was closed.

Findings of Fact

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

- 1) You testified that you reside at [REDACTED] as a [REDACTED], and that this address has been your primary residence since [REDACTED] 2017. However, utility accounts associated with this address are not in your name.
- 2) You further testified that you have worked multiple jobs in New York State in 2018, including [REDACTED] as a [REDACTED].
- 3) You testified that [REDACTED] is the address of a property belonging to your family which you used as a mailing address for receipt of 2017 tax year documents. However, you are not using that address for tax purposes in 2018 and will be filing your taxes from your New York address.
- 4) Your December 11, 2017 application contains no reference to the [REDACTED] address.
- 5) On December 12, 2017, NYSOH issued four notices to you, all of which were addressed to [REDACTED]
- 6) The December 12, 2017 notice confirming your receipt of electronic communication from NYSOH was returned as undeliverable on December 21, 2017.

- 7) On December 26, 2017, the December 12, 2017 notice confirming your election of electronic confirmation was returned to NYSOH as undeliverable. There was a sticker located on the outside of the returned mail listing your address as [REDACTED]
- 8) On December 26, 2017, an NYSOH representative, updated your NYSOH application to indicate that your mailing and residential address was [REDACTED]. There is no indication that you gave the NYSOH representative permission to do this or that you were aware that an NYSOH representative had updated your account to reflect a new mailing address.
- 9) On December 27, 2017, NYSOH issued you notices informing you that you were ineligible for coverage and would be disenrolled from the Essential Plan due to lack of state residency, effective February 1, 2018.
- 10) You testified that you found out you had been disenrolled from your Essential Plan when you called the insurer to pay your March premium, you were informed that your information was no longer in their system.
- 11) On April 24, 2018, you provided documentation of your residence at [REDACTED]
 - a. A paycheck receipt issued by [REDACTED] on November 24, 2017 which was mailed to your New York address. [REDACTED]
 - b. A copy of your valid New York State driver's license, issued [REDACTED] which also reflects your New York address. [REDACTED]

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

Applicable Law and Regulations

Essential Plan Eligibility

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).

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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. 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)).

State Residency Requirement

To be eligible for enrollment in the Essential Plan, an applicant must be a resident of New York State (New York's Basic Health Plan Blueprint, p. 15, as approved January 2017; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>, 45 CFR § 155.305(a)(3), (f)(1)(ii)(A)).

For an individual who is aged 21 or older, not living in an institution, and able to indicate intent, that individual is deemed to be a resident of the Exchange service area in which or she lives and either a) intends to reside, even without a fixed

Legal Analysis

The issue under review is whether NYSOH properly determined that you were no longer eligible for and disenrolled from your Essential Plan, effective February 1, 2018.

On December 12, 2017, NYSOH found you eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective January 1, 2018. You were enrolled in the Essential Plan with a January 1, 2018 coverage start date, as confirmed by the December 12, 2017 enrollment confirmation notice.

Also on December 12, 2017 a notice was issued confirming that you had elected to receive electronic notices regarding your NYSOH account. That notice was addressed to you at “[REDACTED]”

On December 26, 2017, the December 12, 2017 notice confirming your election of electronic communication was returned to NYSOH as undeliverable. There was a sticker located on the outside of the returned mail listing your address as [REDACTED]

Subsequently on December 26, 2017, your NYSOH application was updated to list a residential and mailing address of [REDACTED]

On December 27, 2017, NYSOH issued a notice of discontinuance stating that you no longer qualified to enroll in coverage through NYSOH, effective February 1, 2018, because “[y]ou are not a resident of New York State.” NYSOH also issued a disenrollment notice on December 27, 2017, stating that your Essential Plan coverage would end effective February 1, 2018.

One of the conditions of eligibility for the Essential Plan is New York State residency. Under the Essential Plan, an individual is deemed to be a resident if they intend to reside in the state, even without a fixed address, or has entered the state with a job commitment or is seeking employment.

You testified that you have resided at [REDACTED] since [REDACTED] 2017. You submitted a paycheck from your employer as well as your valid New York State driver’s license, both of which reflect [REDACTED] as your address.

Furthermore, you credibly testified that; you have been residing in New York State throughout 2018; and you have drawn income from multiple sources located in New York including [REDACTED] in the [REDACTED].

Therefore, the record reflects that you have resided and sought work in New York during the relevant time period, either of which is sufficient to satisfy the New York State residency requirement for Essential Plan eligibility at the time of the December 27, 2017 discontinuance notice. Therefore, you were improperly disenrolled from your Essential Plan as of February 1, 2018 for failing to meet the residency requirement.

Accordingly, the December 27, 2017 discontinuance and disenrollment notices are RESCINDED because they improperly terminated your eligibility for and enrollment in the Essential Plan for failure to meet the residency requirement. The January 17, 2018 eligibility notice is MODIFIED to state that you are eligible for the Essential Plan as of February 1, 2018. The January 17, 2018 enrollment confirmation notice is MODIFIED to state that your enrollment in the Essential Plan is effective as of February 1, 2018.

Your case is RETURNED to NYSOH to backdate your Essential Plan coverage as of February 1, 2018.

Decision

The December 27, 2017 discontinuance notice is RESCINDED.

The December 27, 2017 disenrollment notice is RESCINDED.

The January 17, 2018 eligibility determination notice is MODIFIED to state that you are eligible for coverage in the Essential Plan as of February 1, 2018.

The January 17, 2018 enrollment confirmation notice is MODIFIED to state that your coverage in the Essential Plan is effective February 1, 2018.

Your case is RETURNED to NYSOH to backdate your Essential Plan coverage as of February 1, 2018.

Effective Date of this Decision: May 3, 2018

How this Decision Affects Your Eligibility

Your Essential Plan coverage should not have terminated as of February 1, 2018.

Your case is being sent back to NYSOH to backdate your enrollment in the Essential Plan to February 1, 2018.

This decision has no effect on any subsequent determinations made by NYSOH after your appeal.

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
PO Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

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 27, 2017 discontinuance notice is RESCINDED.

The December 27, 2017 disenrollment notice is RESCINDED.

The January 17, 2018 eligibility determination notice is MODIFIED to state that you are eligible for coverage in the Essential Plan as of February 1, 2018.

The January 17, 2018 enrollment confirmation notice is MODIFIED to state that your coverage in the Essential Plan is effective February 1, 2018.

Your case is RETURNED to NYSOH to backdate your Essential Plan coverage as of February 1, 2018.

This decision has no effect on any subsequent determinations made by NYSOH after your appeal.

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، يرجى الاتصال بالرقم 1-855-355-5777. يمكننا 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।

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.

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