



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

## Notice of Decision

Decision Date: May 10, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000029345



Dear [REDACTED]

On April 16, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 31, 2018 eligibility determination and cancellation 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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## Decision

Decision Date: May 10, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000029345



## 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 health insurance coverage through NYSOH, effective February 1, 2018, because of failure to verify your immigration status?

## Procedural History

On January 29, 2018, NYSOH received your initial application for health insurance.

On January 30, 2018, NYSOH issued an eligibility determination notice stating that you were conditionally eligible to purchase a qualified health plan (QHP) at full cost, effective March 1, 2018. This notice did not contain the reason for your conditional eligibility, how you could satisfy any NYSOH request for additional documentation or information to confirm your eligibility, or the due date by which such documents were required to be received by NYSOH.

Also on January 30, 2018, NYSOH issued an enrollment notice confirming your selection of a QHP as of January 29, 2018. This notice stated that your QHP coverage would begin effective March 1, 2018.

Finally, on January 30, 2018, NYSOH redetermined your eligibility for health insurance.

On January 31, 2018, NYSOH issued an eligibility determination notice stating that you were no longer eligible for health insurance through NYSOH, effective February 1, 2018. This was because NYSOH could not verify your immigration status.

Also on January 31, 2018, NYSOH issued a cancellation notice stating that your QHP plan coverage would end effective March 1, 2018.

On February 26, 2018, you contacted the NYSOH Account Review Unit and appealed the cancellation of your QHP coverage as of March 1, 2018, and were seeking a special enrollment period to resume coverage for the remainder of the 2018 plan year.

On April 16, 2018, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: copies of your passport and [REDACTED] Visa. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On April 19, 2018, you provided to NYSOH Appeals Unit through your NYSOH account copies of your passport, [REDACTED] Visa and [REDACTED].

Accordingly, the record was closed on April 19, 2018.

## **Findings of Fact**

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

- 1) You testified that you are appealing your loss of coverage, effective March 1, 2018.
- 2) According to your NYSOH account, you were eligible, by notice dated January 30, 2018, for a limited time, for a full cost qualified health plan, effective March 1, 2018. The notice stated "NY State of Health is checking federal data sources to confirm your immigration status. We will contact you if you need to send in proof that you have an eligible immigration status."
- 3) The January 30, 2018 notice did not direct you to provide NYSOH with documentation of your citizenship, nor did it give you a deadline by which you needed to submit such documentation.
- 4) You testified that at no time after receiving the January 30, 2018 notice, did you believe you had to provide immigration documents to NYSOH.

You testified that you would have gladly provided your [REDACTED] Passport and [REDACTED] Visa to NYSOH if requested to do so.

- 5) NYSOH redetermined your eligibility on January 30, 2018.
- 6) On January 31, 2018, NYSOH issued a notice which determined that you were no longer eligible to enroll in a QHP through NYSOH since it had been unable to verify your immigration status.
- 7) You testified that NYSOH did not give you a sufficient opportunity to provide immigration documentation to NYSOH in order confirm your eligibility to purchase a QHP.
- 8) On April 19, 2018, at the request of the Hearing Officer, you provided copies of your passport, [REDACTED] Visa and [REDACTED] .
- 9) You testified that you were no longer seeking reinstatement of your health insurance as of March 1, 2018 since you had no incurred any medical expenses during that period, but rather a special enrollment period to enroll in a QHP for the remainder of the 2018 plan year.

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

## **Applicable Law and Regulations**

### Citizenship and Immigration Status - Generally

To enroll in health insurance through NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

### Citizenship and Immigration Status – Verification Process

NYSOH must verify or obtain information to determine that an applicant is eligible for enrollment in a QHP, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant (45 CFR § 155.315(c)(3), (f)(2)(i)).

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## Legal Analysis

The issue under review is whether NYSOH properly determined that you were no longer eligible for health insurance coverage through NYSOH, effective February 1, 2018, because of your failure to verify your immigration status.

To enroll in health insurance through NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought.

According to your NYSOH account, you were eligible, by notice dated January 30, 2018, for a limited time, for a full cost qualified health plan, effective March 1, 2018. The notice stated "NY State of Health is checking federal data sources to confirm your immigration status. We will contact you if you need to send in proof that you have an eligible immigration status."

NYSOH redetermined your eligibility on January 30, 2018 and on January 31, 2018, NYSOH issued a notice stating that you were no longer eligible for health insurance through NYSOH. This was because NYSOH could not verify your immigration status.

You testified that at no time after receiving the January 30, 2018 notice, did you believe you had to provide immigration documents to NYSOH. You testified that you would have gladly provided your [REDACTED] Passport and [REDACTED] Visa to NYSOH if requested to do so.

The record reflects that the January 30, 2018 notice did not notify you that you would lose your health coverage if you did not provide proof of your immigration status. The January 30, 2018 notice also did not provide a due date to provide your immigration documentation. Finally, the notice did not direct you to provide proof of immigration status or any documentation to NYSOH, nor did it describe what documentation would be acceptable. Therefore, you were not properly notified that you had to provide proof of your immigration status by a certain date and you should have not been disenrolled from your QHP. effective March 1, 2018.

As such, the January 31, 2018 eligibility determination and disenrollment notices stating that your coverage in your qualified health plan ended March 1, 2018 for failure to provide proof of your immigration status are RESCINDED. Since you were erroneously terminated from your QHP coverage effective March 1, 2018, you are eligible for a special enrollment period.

Your case is being RETURNED to NYSOH to (1) review the immigration documentation you provided on April 19, 2018 and to issue a new determination based on the information now contained in your account and (2) facilitate your

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selection of a QHP through NYSOH upon such a redetermination of your eligibility.

## **Decision**

The January 31, 2018 eligibility determination and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to (1) review the immigration documentation you provided on April 19, 2018 and to issue a new determination based on the information now contained in your account and (2) facilitate your selection of a QHP through NYSOH, if applicable, upon such a redetermination of your eligibility.

**Effective Date of this Decision:** May 10, 2018

## **How this Decision Affects Your Eligibility**

You were improperly disenrolled from your QHP effective March 1, 2018.

Provided you are redetermined eligible for enrollment in a QHP, you are awarded a special enrollment period to select a QHP within 60 days of the date of that eligibility determination.

## **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.

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

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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**

The January 31, 2018 eligibility determination and disenrollment notices are **RESCINDED**.

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Your case is RETURNED to NYSOH to (1) review the immigration documentation you provided on April 19, 2018 and to issue a new determination based on the information now contained in your account and (2) facilitate your selection of a QHP through NYSOH, if applicable, upon such a redetermination of your eligibility.

You were improperly disenrolled from your QHP effective March 1, 2018.

Provided you are redetermined eligible for enrollment in a QHP, you are awarded a special enrollment period to select a QHP within 60 days of the date of that eligibility determination.

### **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، يرجى 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।

## **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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