

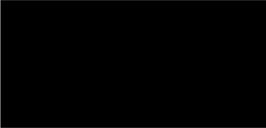


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: May 11, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000030081



Dear [REDACTED]

On May 7, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's February 5, 2018 eligibility determination notice, the February 5, 2018 disenrollment notice, the March 13, 2018 eligibility determination notice and the March 13, 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 NY State of Health 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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Albany, NY 12211

Decision

Decision Date: May 11, 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 February 28, 2018?

Did NYSOH properly determine that your enrollment in a qualified health plan and the application of advance payments of the premium tax credit (APTC) were effective no earlier than April 1, 2018?

Procedural History

On October 25, 2017, a Certified Application Counselor submitted an updated application for financial assistance on your behalf.

Also on October 25, 2017, income documentation was uploaded to your NYSOH account.

On October 26, 2017, NYSOH issued a notice stating that the income information in your application did not match what NYSOH had received from state and federal data sources and that additional information was needed to confirm the information in your application. This notice directed you to submit proof of your household income by November 9, 2017 in order for your eligibility for financial

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assistance to be determined. This notice was mailed to you at [REDACTED].

Also on October 26, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account.

On October 27, 2017, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. This notice directed you to submit additional proof of your income by November 9, 2017. This notice was mailed to you at [REDACTED].

On November 1, 2017, a Certified Application Counselor submitted an updated application for financial assistance on your behalf.

On November 2, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective December 1, 2017. The notice further directed you to provide documentation confirming your income before January 30, 2018. This notice was mailed to you at [REDACTED] 4.

Also on November 2, 2017, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective December 1, 2017.

On February 5, 2018, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost, effective March 1, 2018, and that you no longer qualified for the Essential Plan as of February 28, 2018. 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.

On February 5, 2018, NYSOH issued a disenrollment notice stating that your enrollment in the Essential Plan would end as of February 28, 2018, because you were no longer eligible to remain in your plan.

On March 12, 2018, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible to enroll in a qualified health plan through NYSOH and to receive up to \$332.00 per month in APTC and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, both effective April 1, 2018.

Also on March 12, 2018 you spoke to NYSOH's Account Review Unit and appealed insofar as you were without coverage for March 2018.

On March 13, 2018, NYSOH issued a notice of eligibility determination, based on your March 12, 2018 application, stating that you were eligible for up to \$332.00

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per month in APTC and eligible for cost-sharing reductions if you enrolled in a silver level qualified health plan, both effective April 1, 2018.

Also on March 13, 2018, NYSOH issued a notice of enrollment confirmation, based on your plan selection on March 12, 2018, stating that you were enrolled in a qualified health plan with a plan enrollment start date of April 1, 2018 and that your APTC would be applied to your monthly premium starting on April 1, 2018.

On May 7, 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 application indicates, that you receive all of your notices from NYSOH via regular mail.
- 2) You testified that you did not receive any notices stating that your eligibility was only conditional and that you needed to provide documentation of your household's income.
- 3) On October 25, 2017, your mailing address was updated to [REDACTED]
- 4) You testified that three months prior to the hearing, you moved to [REDACTED]. Prior to this move, you lived at [REDACTED] and that this was your address at the time of the October 25, 2017 and November 1, 2017 applications.
- 5) The application submitted November 1, 2017 lists your address as [REDACTED]
- 6) You testified that you provided your 2016 tax return to your Certified Application Counselor and that this is the only income documentation you have submitted to NYSOH.
- 7) You testified that you did not receive any notice advising you that you needed to submit additional income documentation.
- 8) You testified that you did know that you had been disenrolled from your coverage until early March 2018 when you went to the [REDACTED]

- 9) Your NYSOH account indicates that on February 4, 2018 your application was run and you were found no longer eligible for the Essential Plan as of February 28, 2018.
- 10) You updated the income information in your NYSOH account on March 12, 2018. As a result of this application, you were found eligible to enroll in a qualified health plan and for up to \$332.00 per month in APTC effective April 1, 2018. You selected a qualified health plan for enrollment that same day.
- 11) Your enrollment in your qualified health plan became effective April 1, 2018.
- 12) You testified that you are seeking enrollment in coverage for the month of March 2018.

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 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

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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)).

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of advance payments of the premium tax credit (APTC) for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

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 February 28, 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 determination issued on November 2, 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 January 30, 2018.

You testified that you did not receive any notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail.

On October 25, 2017, the mailing address in your account was updated to be [REDACTED]. The application submitted on November 1, 2017 lists your address as [REDACTED]. You testified that at the time of the November 1, 2017 application, your address was [REDACTED].

However, the November 2, 2017 eligibility determination notice which advised you that your eligibility was only conditional and that you needed to submit documentation of your household's income before January 30, 2018 was mailed to [REDACTED].

NYSOH is required to send applicants proper notice in order for applicants to take appropriate action. Since the record reflects that NYSOH sent the November 2, 2017 eligibility notice to an address other than the address you

reported and NYSOH has provided no explanation as to why the notice was sent to an address other than the address you reported, the record reflects that NYSOH did not provide you 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 February 5, 2018 eligibility determination notice, stating that you were no longer eligible for the Essential Plan because you failed to submit documentation is **RESCINDED**.

The second issue is whether NYSOH properly determined that your enrollment in a qualified health plan, as well as the application of APTC, was effective no earlier than April 1, 2018.

The record shows that on March 12, 2018 you updated the information in your NYSOH account and submitted a request to enroll in a qualified health plan. On March 13, 2018 NYSOH issued an enrollment confirmation notice stating that your enrollment in your qualified health plan was effective April 1, 2018 and that APTC would be applied to your monthly premium effective April 1, 2018.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month. Additionally, 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.

Therefore, NYSOH's March 13, 2018 eligibility determination notice and enrollment confirmation notice are **AFFIRMED** because they properly began your eligibility for and enrollment in your qualified health plan as well as your advance premium tax credits on April 1, 2018.

The February 5, 2018 disenrollment notice is **MODIFIED** to state that your enrollment in your Essential Plan ended effective March 31, 2018.

Your case is **RETURNED** to NYSOH to reinstate your coverage in your Essential Plan from March 1, 2018 through March 31, 2018.

Decision

The February 5, 2018 eligibility determination notice is **RESCINDED**.

The February 5, 2018 disenrollment notice is **MODIFIED** to state that your enrollment in your Essential Plan ended effective March 31, 2018.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan from March 1, 2018 through March 31, 2018.

The March 13, 2018 eligibility determination notice is AFFIRMED.

The March 13, 2018 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: May 11, 2018

How this Decision Affects Your Eligibility

NYSOH erred in termination your Essential Plan effective February 28, 2018, without the proper notice.

Your enrollment in your qualified health plan and your eligibility for APTC properly began as of April 1, 2018.

Your case is being sent back to NYSOH to reinstate you in your Essential Plan from March 1, 2018 through March 31, 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:

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).

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 5, 2018 eligibility determination notice is **RESCINDED**.

The February 5, 2018 disenrollment notice is **MODIFIED** to state that your enrollment in your Essential Plan ended effective March 31, 2018.

NYSOH erred in termination your Essential Plan effective February 28, 2018, without the proper notice.

The March 13, 2018 eligibility determination notice is **AFFIRMED**.

The March 13, 2018 enrollment confirmation notice is **AFFIRMED**.

Your enrollment in your qualified health plan and your eligibility for APTC properly began as of April 1, 2018.

Your case is being sent back to NYSOH to reinstate you in your Essential Plan from March 1, 2018 through March 31, 2018.

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).

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 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 मदद 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. y&b&tumi 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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