



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

Notice of Decision

Decision Date: May 25, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000030140



Dear [REDACTED]

On May 8, 2018, you appeared by telephone, with the assistance of an Albanian Interpreter, at a hearing on your appeal of NY State of Health's February 10, 2018 eligibility determination and disenrollment notices and the February 22, 2018 eligibility determination and plan enrollment 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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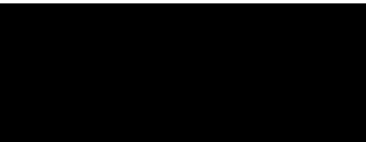


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: May 25, 2018

NY State of Health Account ID: [REDACTED]
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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 disenrolled from your Essential Plan, effective February 28, 2018, and next re-enrolled in an Essential Plan, effective April 1, 2018?

Procedural History

On November 23, 2017, NYSOH issued eligibility determination notices stating that you were eligible to enroll in an Essential Plan for a limited time with a \$20.00 monthly premium, effective December 1, 2017. The notice directed you to provide proof of household income by February 20, 2018.

Also on November 23, 2017, a plan enrollment notice was issued confirming your enrollment in an Essential Plan, effective December 1, 2017.

On January 28, 2018, NYSOH issued eligibility determination notices stating that you were eligible to enroll in an Essential Plan for a limited time with a \$20.00 monthly premium, effective March 1, 2018. The notice directed you to provide proof of household income by February 20, 2018.

Also on January 28, 2018, a plan enrollment notice was issued confirming your enrollment in an Essential Plan, effective March 1, 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).

On February 9, 2018, pursuant to NYSOH's request, you submitted a copy of your Unemployment Insurance Benefit Determination Statement, dated August 1, 2018, and your spouse's four most recent paystubs dated January 12, 2018 through February 2, 2018 (see Documents [REDACTED] and [REDACTED]). These documents were validated by NYSOH that same day.

On February 10, 2018, NYSOH issued an eligibility determination notice stating that you were eligible to share with your spouse an advance payment of the premium tax credit in an amount of \$747.00 and you were eligible for cost-sharing reductions if you enrolled in a silver-level qualified health plan, effective March 1, 2018. The notice further stated that you must pick a health plan.

Also on February 10, 2018, a disenrollment notice was issued stating that your coverage with the Essential Plan would end on February 28, 2018, because you were no longer eligible for that program.

On February 22, 2018, NYSOH issued an eligibility determination notice, based on your February 21, 2018 updated application, stating that you were eligible to enroll in an Essential Plan for a limited time with a \$20.00 monthly premium, effective April 1, 2018. The notice directed you to provide proof of household income by May 22, 2018.

Also on February 22, 2018, a plan enrollment notice was issued confirming your enrollment in an Essential Plan, effective April 1, 2018.

On March 13, 2018, you appealed the February 22, 2018 eligibility determination and plan enrollment notices insofar as your Essential Plan began on April 1, 2018, and not March 1, 2018.

On May 8, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. An Albanian Interpreter [REDACTED] assisted. The record was developed during the hearing and closed at the end of the proceeding.

Findings of Fact

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

- 1) According to your NYSOH account, on November 22, 2017, you were determined eligible for and enrolled in an Essential Plan for a limited time, effective December 1, 2017, based on a projected annual income of \$35,550.00 at the time. You were directed to submit proof of household income to confirm your eligibility.

- 2) You testified that you went to an application counselor to update your household income and to submit proof of income, which updates resulted in your premiums going up.
- 3) You further testified that you do not recall if you reviewed the income in your application with your application counselor at that time. You believe the problem with the application could have been a result of your spouse's employment changing from temporary to permanent or that the amount of your unemployment benefits could have been entered incorrectly.
- 4) On February 9, 2018, you submitted a copy of your Unemployment Insurance Benefit Determination Statement and your spouse's four most recent paystubs dated January 12, 2018 through February 2, 2018 (see Documents [REDACTED] and [REDACTED]). These documents were validated by NYSOH that same day and you and your spouse were found eligible to share in an advance payment of the premium tax credit and were simultaneously disenrolled from your Essential Plan effective February 28, 2018.
- 5) The application, dated February 9, 2018, states that you and your spouse have a gross household income of \$45,514.18, consisting of \$5,500.00 in unemployment benefits you expect to receive in 2018, \$31,014.88 your spouse expects to receive from her primary employer, and \$9,000.00 your spouse expects to receive from her second employer.
- 6) You testified that you are unsure of your spouse's gross income but that she brings home \$630.00 per week after taxes.
- 7) The documents submitted on February 9, 2018, show that at the time of the application your spouse was expected to receive \$31,014.88 in employment income from her primary employer in 2018.
- 8) There was no documentation provided for the second employer, but there was a 2017 third quarter wage hit reflecting income from that second employer.
- 9) You further testified that the income information in the application was incorrect and you do not understand why you were disenrolled from the Essential Plan.
- 10) You testified that you began receiving unemployment benefits in August 2017, which ended in the first two months of 2018. You have not received any more benefits since.
- 11) You testified that you would have never told the application counselor that your unemployment benefits were expected to be \$5,500.00.

- 12) You testified that you are unable to get an unemployment benefits history statement to prove that your benefits ended in February 2018.
- 13) You submitted an Unemployment Insurance Benefit Determination Statement, dated August 1, 2017, which shows that your calculated benefit is \$430.00 per week. It states, "this is not a decision on your eligibility" and does not show whether you were approved for that benefit and when your benefit began and ended (see Document [REDACTED]).
- 14) According to your November 22, 2017 application and all subsequent applications, you attested to receiving \$370.00 in weekly unemployment benefits beginning the second week of September 2017, resulting in 15 weeks of income in 2017, which equals \$5,500.00 in unemployment benefits income.
- 15) This application and all subsequent applications also reflect that you attested to your spouse receiving \$9,000.00 annual income from a second job.
- 16) According to your NYSOH account, you receive all your notices from NYSOH via regular mail.
- 17) You testified that you never received notice that you were disenrolled from your Essential Plan, effective February 28, 2018.
- 18) You testified that you made your March 2018 premium payment for the Essential Plan and do not understand why your plan was not active in March 2018.
- 19) You testified that you did not realize that your Essential Plan ended until you were required to visit [REDACTED] and you had to pay for that visit out-of-pocket. You testified that you put off additional treatment for the rest of the month because of having no insurance.
- 20) According to your NYSOH account, on February 21, 2018, NYSOH received your updated application for health insurance and redetermined your eligibility. You reenrolled into an Essential Plan that day.
- 21) According to your NYSOH account, upon providing additional proof of income, you were found fully eligible for and enrolled in the Essential Plan as of April 1, 2018.
- 22) You testified that you wanted your enrollment in your Essential Plan to begin on March 1, 2018, because you want to be reimbursed for the medical bills you incurred that month.

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

Applicable Law and Regulations

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).

Requirement for Individuals to Report Changes

NYSOH must require an applicant to report any change which may affect eligibility, such as citizenship status, incarceration, residency, household size, and income within 30 days of such change (45 CFR §155.330(b), 45 CFR §155.305, 42 CFR §435.403, 42 CFR §435.406, 42 CFR §425.603; see New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

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/basic-health-program.html>).

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)).

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Legal Analysis

The first issue under review is whether NYSOH properly determined that you were disenrolled from your Essential Plan, effective February 28, 2018.

The record reflects that you were determined eligible for and enrolled in an Essential Plan for a limited time, effective December 1, 2017, based on a reported household income of \$ 35,550.00 at the time. These facts are not in dispute.

You testified that you went to an application counselor to update your household income and to submit proof of income. You further testified that, because of these updates, your premiums went up.

You testified that the income information in your application was incorrect and you do not understand why you were disenrolled from the Essential Plan. You testified that you stopped receiving unemployment benefits in the first two months of 2018, and you would have never told the counselor that your unemployment benefits were expected to be \$5,500.00.

However, the record indicates that you updated your account on November 22, 2017, and included in your household income your estimated unemployment benefit in an amount of \$5,500.00 and employment income from your spouse's second job in an amount of \$9,000.00. There is no record that you updated your account prior to February 21, 2018, to reflect that your unemployment benefits and your spouse's second job had ended.

You testified that, when you supplied the proof of income on February 9, 2018 to the application counselor, you do not recall if you reviewed the income in your application with your application counselor at that time.

Therefore, it is concluded that, although you did supply proof of income, you did not update your application to indicate the end date of your unemployment benefits or the end date, if any, of your spouse's second job. It is further concluded that your failure in reporting a more current and accurate reflection of your expected 2018 household income was not in keeping with the requirement that Essential Plan enrollees report changes in circumstances, such as a change in income, within 30 days of those changes.

Your updated application resulted in your eligibility being redetermined based on the best evidence in the record, which was the information contained in your application.

Because you were redetermined eligible for advance payments of the premium tax credit in the amount of \$747.00 per month, effective March 1, 2018, you were not qualified to remain in your Essential Plan, as of February 28, 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).

Since NYSOH properly redetermined your eligibility based upon your report of your household's income, the February 10, 2018 eligibility determination and disenrollment notices are AFFIRMED.

The second issue under review is whether NYSOH properly determined that you were re-enrolled in your Essential Plan, effective April 1, 2018.

On November 23, 2017 and January 28, 2018, NYSOH issued eligibility determination notices, based on your November 22, 2017 updated application, stating in pertinent part that you needed to provide proof of household income by February 20, 2018, to confirm your eligibility.

Pursuant to NYSOH's request, you submitted a copy of your Unemployment Insurance Benefit Determination Statement dated August 1, 2018 and your spouse's four most recent paystubs dated January 12, 2018 through February 2, 2018 on February 9, 2018 (see Documents [REDACTED] and [REDACTED]).

Since you submitted documentation, it is determined that NYSOH properly notified you of your need to provide proof of household income to confirm your eligibility.

You further testified that you never received notice that you were disenrolled from your Essential Plan. You testified that you made your March 2018 premium payment for the Essential Plan and do not understand why your plan was not active in March 2018. You testified that you did not realize that your Essential Plan ended until you were required to visit [REDACTED] and you had to pay for that visit out-of-pocket.

However, these statements are inconsistent with your testimony that, when you went to an application counselor to submit proof of income to her, your premiums went up. This indicates that the application counselor did advise you of your change in eligibility and that you were disenrolled from your Essential Plan at the time you submitted your application.

Regardless, since your NYSOH account confirms that you elected to receive notifications by regular mail and there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable, it is concluded that NYSOH properly notified you that your eligibility had changed and that you were disenrolled from the Essential Plan as of February 28, 2018.

Therefore, the issue is further refined to whether your re-enrollment in your Essential Plan properly began as of April 1, 2018.

The record reflects that, on February 21, 2018, NYSOH received your updated application for health insurance. You reenrolled into an Essential Plan that day.

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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.

Since you selected your Essential Plan on February 21, 2018, it must take effect on the first day of the second month following February 2018; that is, on April 1, 2018.

Therefore, NYSOH's February 22, 2018 eligibility determination and plan enrollment notices stating that your eligibility for and enrollment in the Essential Plan resumed as of April 1, 2018, were correct when made and are **AFFIRMED**.

NYSOH requires an applicant to report any change which may affect eligibility, such as a change in income within 30 days of such change. Based on your testimony at hearing your household income has changed. Please update your NYSOH account accordingly.

Decision

The February 10, 2018 eligibility determination and disenrollment notices are **AFFIRMED**.

The February 22, 2018 eligibility determination and plan enrollment notices are **AFFIRMED**.

Effective Date of this Decision: May 25, 2018

How this Decision Affects Your Eligibility

NYSOH properly disenrolled you from your Essential Plan, effective February 28, 2018.

NYSOH properly re-enrolled you in the Essential Plan, effective April 1, 2018.

You did not have health insurance through NYSOH in the month of March 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
- 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

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The February 10, 2018 eligibility determination and disenrollment notices are AFFIRMED.

NYSOH properly disenrolled you from your Essential Plan, effective February 28, 2018.

The February 22, 2018 eligibility determination and plan enrollment notices are AFFIRMED.

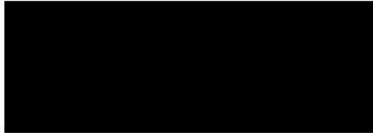
NYSOH properly re-enrolled you in the Essential Plan, effective April 1, 2018.

You did not have health insurance through NYSOH in the month of March 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)

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).

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।

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 b&etumi ama wo obi a okyer& kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

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۔

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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.