



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

## Notice of Decision

Decision Date: May 29, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000030661



Dear [REDACTED],

On May 22, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's March 24, 2018 eligibility determination and 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 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 29, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000030661



## 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 your eligibility for, and enrollment in, the Essential Plan was effective May 1, 2018?

## Procedural History

On April 11, 2017, NYSOH received your updated application for financial assistance with health insurance.

On April 12, 2017, NYSOH issued an eligibility determination notice, based on your April 11, 2017 application, stating you remained eligible for Medicaid, effective April 1, 2017.

Also on April 12, 2017, NYSOH issued an enrollment confirmation notice, confirming your selection of a Medicaid Managed Care (MMC) plan, with an enrollment start date of May 1, 2017.

On February 4, 2018, NYSOH issued a notice stating it was time to renew your health insurance for the upcoming coverage year. That notice stated that based on information from federal and state sources, NYSOH could not determine whether you would qualify for financial help paying for health coverage, and that you needed to update your account by March 15, 2018, or you might lose your health insurance and any financial assistance you were currently receiving.

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No updates were received by March 15, 2018, and NYSOH redetermined your eligibility for financial assistance with health insurance.

On March 17, 2018, NYSOH issued a discontinuance notice stating you were not eligible for Medicaid, Child Health Plus, the Essential Plan, or to receive tax credits or cost-sharing reductions, effective April 1, 2018. The notice also stated you could not purchase a qualified health plan through NYSOH. This was because you did not respond to the renewal notice and did not complete your renewal within the required timeframe.

Also on March 17, 2018, NYSOH issued a disenrollment notice stating your enrollment in your MMC plan was terminated, effective March 31, 2018.

On March 23, 2018, NYSOH received your updated application for health insurance. That day, a preliminary eligibility determination was prepared stating you were eligible for the Essential Plan with a \$20.00 monthly premium, effective May 1, 2018. You also selected a plan for enrollment.

Also on March 23, 2018, you spoke to NYSOH's Account Review Unit and appealed the start date of your Essential Plan, insofar as it did not begin on April 1, 2018. You requested Aid to Continue, pending the outcome of your appeal.

On March 24, 2018, NYSOH issued a notice of eligibility determination stating you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective May 1, 2018.

Also on March 24, 2018, NYSOH issued an enrollment notice confirming your selection of your Essential Plan, with a plan enrollment start date of May 1, 2018.

On March 28, 2018, NYSOH issued a notice of eligibility determination stating you were eligible for Medicaid, effective April 1, 2018. This was because your request for Aid to Continue was granted, pending the outcome of your appeal.

Also on March 28, 2018, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an MMC plan, beginning April 1, 2018. This was also because your request for Aid to Continue was granted, pending the outcome of your appeal.

On May 22, 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 were determined eligible for Medicaid on April 12, 2017, with an effective date of April 1, 2017.
- 2) You testified you were previously enrolled to receive email alerts from NYSOH regarding notices issued in your NYSOH account.
- 3) You testified that you did not receive any email alerts regarding any notice in your NYSOH account telling you that you needed to update your application to renew your eligibility. You also did not receive any renewal notice by regular mail.
- 4) You testified that you did not know you needed to update your account until you received a letter in the mail stating your coverage was going to end.
- 5) You testified you went onto NYSOH's website to find out how to reenroll, and you contacted NYSOH to update your application and reenroll in coverage.
- 6) Your NYSOH account reflects you contacted NYSOH on March 23, 2018 to update your application, and were found eligible for the Essential Plan. You selected a plan for enrollment that same day.
- 7) You testified NYSOH told you that you did not respond to the renewal notice, and you informed NYSOH you did not receive the notice.
- 8) You testified you went back through your emails and mail from February 2018, and did not find any email or letter from NYSOH.
- 9) You testified that, when you receive an email from NYSOH, it tells you to log into your NYSOH account to review whatever notice NYSOH has issued.
- 10) You testified you requested to change your contact preferences to regular mail when you updated your NYSOH account in March 2018, and your NYSOH account currently reflects your preference to receive notices in the regular mail.
- 11) You testified you are seeking to have coverage in the Essential Plan for the month of April 2018 because you receive weekly [REDACTED], and also went to a medical appointment with [REDACTED] in that month.

12) NYSOH uploaded an evidence packet to your NYSOH account. Contained within that evidence packet under the heading of “electronic notice requirement” is a three-page memorandum dated August 21, 2017. The memorandum sets forth the federal requirements regarding use of electronic communications and asserts that NYSOH is in compliance with federal regulation and guidance on the use of electronic notices. The memorandum asserts that “the electronic notification rules do not require that exchanges track and monitor consumers actual receipt of electronic notices”.

13) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the February 4, 2018 renewal notice.

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

## **Applicable Law and Regulations**

### **Medicaid Renewal**

In general, NYSOH must review Medicaid eligibility once every 12 months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual’s account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (45 CFR § 155.335(h)).

### **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)).

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined your eligibility for, and enrollment in the Essential Plan was effective May 1, 2018.

You were found eligible for Medicaid effective April 1, 2017. You subsequently enrolled into an MMC plan.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's February 4, 2018 renewal notice stated that there was not enough information to determine whether you were eligible to continue your financial assistance for health insurance, and that you needed to supply additional information by March 15, 2018, or your financial assistance might end.

Because there was no timely response to this notice, your MMC plan and Medicaid coverage were terminated, effective March 31, 2018.

However, you credibly testified you were enrolled to receive email alerts regarding notices from NYSOH. Though your NYSOH account currently reflects you are enrolled to receive notices in the regular mail, you credibly testified you

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asked NYSOH to change your contact preferences in March 2018. Moreover, you testified that, when you received emails from NYSOH, they would advise you to log into your NYSOH account to review any notices issued, which is an accurate description of the method NYSOH utilizes for individuals who have indicated a preference for paperless contact. Therefore, even though there is no way in NYSOH's systems to verify when or if you changed your contact preferences, your testimony that you were enrolled to receive email alerts at the time the renewal notice was issued is accepted as credible.

Although NYSOH contends that it complied with federal mandates regarding electronic notices, there is no evidence in the file that NYSOH sent you any electronic alert notifying you of a new notice available in your account on February 4, 2018. You credibly testified you did not receive an electronic alert regarding the renewal notice, which directed you to update your account because there was not enough information to renew your coverage for the upcoming year. There is also no evidence in your account documenting that any email alert was sent to you regarding the notice, that any such electronic alert failed, or that the notice was later sent to you by regular mail.

NYSOH is required to send applicants proper notice in order for applicants to take appropriate action. Since there is no evidence that NYSOH sent you an email alert, and you testified that you did not receive one, there is insufficient evidence in the record that NYSOH provided you with proper notice by electronic means that you needed to update your NYSOH account to continue to receive financial assistance and health insurance through NYSOH.

You renewed your eligibility for financial assistance through NYSOH for the upcoming coverage year on March 23, 2018, and therefore we must assume that the information you provided at that time is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

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. 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.

Had the information been submitted by March 15, 2018, the renewal deadline, your eligibility for, and enrollment in, the Essential Plan would have begun on April 1, 2018.



Therefore, the March 24, 2018 eligibility determination and enrollment confirmation notices are MODIFIED to state that your eligibility for, and enrollment in, the Essential Plan was effective April 1, 2018.

## **Decision**

The March 24, 2018 eligibility determination notice is MODIFIED to state that your eligibility for the Essential Plan was effective April 1, 2018.

The March 24, 2018 enrollment confirmation notice is MODIFIED to state that your enrollment in the Essential Plan was effective April 1, 2018.

Your case is RETURNED to NYSOH to backdate our Essential Plan enrollment to April 1, 2018.

**Effective Date of this Decision:** May 29, 2018

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

Your eligibility for, and enrollment in, the Essential Plan should have been effective as of April 1, 2018.

Your case is being sent back to NYSOH to backdate your Essential Plan coverage to April 1, 2018.

You will be responsible for any premiums that result from the backdating of your coverage.

## **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

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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 March 24, 2018 eligibility determination notice is MODIFIED to state that your eligibility for the Essential Plan was effective April 1, 2018.

The March 24, 2018 enrollment confirmation notice is MODIFIED to state that your enrollment in the Essential Plan was effective April 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).

Your case is RETURNED to NYSOH to backdate our Essential Plan enrollment to April 1, 2018.

Your eligibility for, and enrollment in, the Essential Plan should have been effective as of April 1, 2018.

Your case is being sent back to NYSOH to backdate your Essential Plan coverage to April 1, 2018.

You will be responsible for any premiums that result from the backdating of your coverage.

### **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।

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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. ye&tumi 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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