



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

Notice of Decision

Decision Date: May 20, 2016

NY State of Health Account ID: [REDACTED] (Both currently active; second should be deactivated)

Appeal Identification Number: AP000000005503

[REDACTED]

Dear [REDACTED],

On February 25, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's November 10, 2015 eligibility determination and December 17, 2015 cancellation notice in account [REDACTED], as well as the November 17, 2015, December 4, 2015, and December 10, 2015 (regarding your daughter) eligibility determinations in account [REDACTED]

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 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).

This page intentionally left blank.



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

Decision

Decision Date: May 20, 2016

NY State of Health Account ID: [REDACTED] (Both Active)
Appeal Identification Number: AP000000005503



Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did New York State of Health (NYSOH) properly determine that you and your daughter were eligible to enroll in the Essential Plan effective January 1, 2016?

Did NYSOH properly determine that eligibility for coverage through Medicaid for you and your daughter should end November 30, 2015?

Did NYSOH properly determine that coverage in your Essential Plan for you and your daughter would end effective January 1, 2016?

Procedural History

On September 15, 2015, a renewal notice was issued in account ID [REDACTED] stating that NYSOH could not make a determination regarding your eligibility and your daughter's eligibility for financial assistance for the upcoming coverage year based on the information available from federal and state sources. The notice directed you to update your NYSOH account by November 15, 2015 so that a determination could be made about your eligibility, or you might lose your financial assistance.

On November 9, 2015, a second NYSOH account was created in your name with an account ID of [REDACTED], and an application was filed in that account.

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 November 10, 2015, an eligibility determination notice was issued from [REDACTED], stating that you and your daughter were both eligible for the Essential Plan with a \$20.00 monthly premium, based on an annual household income of \$29,999.06, effective January 1, 2016.

Also on November 10, 2015, an enrollment confirmation notice was issued from [REDACTED] which confirmed that you and your daughter had been enrolled in Essential Plan 1 through Fidelis Care, effective January 1, 2016.

On November 17, 2015, an eligibility determination was issued from [REDACTED], your original NYSOH account, stating that you and your daughter were not qualified to enroll in coverage through NY State of Health because you had not responded to the renewal notice. This same notice stated that your eligibility and your daughter's eligibility would end effective November 30, 2015.

On November 23, 2015, a disenrollment notice was issued from [REDACTED] stating that your coverage and your daughter's coverage through your MMC plan would end effective November 30, 2015 because you had not renewed your health insurance coverage.

On December 3, 2015, you contacted NYSOH and requested an appeal insofar as you and your daughter were disenrolled from your MMC plan, effective November 30, 2015, and insofar as your enrollment and your daughter's enrollment in coverage through the Essential Plan would not start until January 1, 2016.

On December 4, 2015, an eligibility determination notice was issued from [REDACTED] stating that you and your daughter were eligible to purchase a qualified health plan at full cost, and that neither you nor your daughter were eligible for Medicaid or advance payments of the premium tax credit because you and your daughter were qualified for coverage on another NY State of Health account.

On December 9, 2015, both of your NYSOH Accounts, numbers [REDACTED] and [REDACTED], were updated by a NYSOH representative.

On December 10, 2015, an eligibility determination notice was issued from [REDACTED] stating that you, individually, were eligible to enroll in the Essential Plan with a monthly premium of \$20.00, based on an annual household income of \$24,372.60, effective January 1, 2016.

That same day, a notice was issued from [REDACTED] stating that more information was needed to determine your daughter's eligibility for coverage, and that she needed to submit income documentation by December 25, 2015.

Also on December 10, 2015, an enrollment confirmation notice was issued from [REDACTED] confirming your individual enrollment in Essential Plan 1 through Fidelis Care, effective January 1, 2016.

On December 17, 2015, a cancellation notice was issued from [REDACTED] stating that your coverage and your daughter's coverage in your Essential Plan under that NYSOH account number would end effective January 1, 2016 (the date it had been scheduled to begin) because you and your daughter were no longer eligible to enroll in health insurance through NY State of Health.

On December 24, 2015, NYSOH issued a cancellation notice from [REDACTED] stating that your coverage in the Essential Plan would end effective January 1, 2016 because you were no longer eligible to enroll in your current health insurance.

On December 31, 2015, NYSOH issued an enrollment confirmation notice from [REDACTED], confirming your enrollment in Medicaid through Fidelis Care, effective December 1, 2015.

On January 1, 2016, NYSOH issued an eligibility determination notice from [REDACTED] stating that you individually remained eligible for Medicaid, effective December 1, 2015.

Also on January 1, 2016, NYSOH issued a confirmation of enrollment stating that your daughter was enrolled in Medicaid, and needed to pick a health plan.

On January 7, 2016, NYSOH issued an enrollment confirmation notice from [REDACTED] stating that you were an enrolled in a Fidelis MMC plan, effective December 1, 2015, and that your daughter was enrolled in a different Fidelis MMC plan effective February 1, 2016.

On February 25, 2016, 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) Your application stated that you will file your taxes as head of household with qualifying individual, and that you plan to claim your daughter as a dependent.
- 2) According to NYSOH records, an internal review determined that NYSOH improperly allowed you to mistakenly create a second account, and that in

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 future, account number [REDACTED] was the account that needed to remain active. Although the note indicated that account number [REDACTED] was to be deactivated, this has not been done to date.

- 3) You are seeking insurance for yourself and your daughter.
- 4) The application that was submitted on November 9, 2015 in the second account listed an annual household income of \$29,999.06, consisting of \$10,920.00 you earn from your employment, and \$19,079.06 your daughter earns from employment.
- 5) You testified that you received the September 15, 2015 renewal notice.
- 6) You testified that you logged into your NYSOH account sometime in November prior to the deadline in the renewal notice.
- 7) The record reflects that an application was received by NYSOH on November 9, 2015 with updated information; however, it was processed with the new account number.
- 8) You testified that you logged into your existing account and made updates in response to the renewal notice, and that you did not create a second account. You further testified that, when you spoke to the appeals unit, you were told by the person you spoke to that they did not know why a second account was created, and that it would be deleted.
- 9) Your application states that you live in Onondaga County.

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).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2015 FPL, which is \$15,930.00 for a two-person household (80 Federal Register 3236, 3237).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

Medicaid

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2015 FPL, which is \$15,930.00 for a two-person household (80 Federal Register 3236, 3237).

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 provided by the individual (45 CFR §155.335(h)).

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 Analysis

The first issue under review is whether NYSOH properly determined that you and your daughter were eligible to enroll in the Essential Plan effective January 1, 2016.

Your application in account [REDACTED] reflects that you are in a two-person household and you plan to file your taxes with a tax filing status of head of household with qualifying individual. You plan to claim your daughter as a dependent. The application that was submitted on November 9, 2015 listed an annual household income of \$29,999.06, and the eligibility determination relied upon that information.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since \$29,999.06 is 188.32% of the 2015 FPL, you and your daughter were not eligible for Medicaid as of your November 9, 2015 application.

However, the Essential Plan can be provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the FPL for the applicable family size. Since \$29,999.06 is 188.32% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan based on the information in your application.

Therefore, the November 10, 2015 eligibility determination in [REDACTED] stating that you and your daughter were eligible for the Essential Plan was correct.

Additionally, coverage under the Essential Plan properly began on January 1, 2016, because coverage under that the plan did not exist prior to that date.

The second issue under review is whether NYSOH properly determined that eligibility for and enrollment in coverage through Medicaid for you and your daughter should end November 30, 2015.

NYSOH issued an eligibility determination in account number [REDACTED] on November 17, 2015, stating that your family's eligibility for, and enrollment in, Medicaid coverage ended November 30, 2015 because you failed to respond to the renewal notice.

You testified you updated your account prior to the November 15, 2015 deadline provided in the September 15, 2015 renewal notice. Because the system improperly created a new account instead of updating your original account, your having updated your information was not properly recorded in your original account.

The fact that a second account was created is immaterial; the record reflects that you did contact NYSOH prior to the renewal deadline and update your information as required.

Therefore, it is found that you timely responded to the renewal request for updated information.

It is also found that the improper creation of a second account resulted in the system not recognizing that your updated application filed in [REDACTED] was not a new application, but was instead a renewal. Therefore, the system only calculated your eligibility for coverage as of the start of the new year; that is, as of January 1, 2016.

Had your eligibility for coverage as of November 9, 2015, and not January 1, 2016, been determined in response to your November 9, 2015 application, as it should have been, the system would have determined that you were no longer eligible for Medicaid after November 30, 2015.

Once the system found that you were no longer eligible for Medicaid after November 30, 2015 and eligible for the Essential Plan only after January 1, 2016, it would have determined your eligibility for December 2015. As it is, the system failed to consider you for coverage for the time between what would have been the end of your Medicaid coverage (November 30, 2015) and the start of your Essential Plan coverage (January 1, 2016), through no fault of your own.

Had your renewal been properly entered into your original account, your family would have been eligible to receive a significant amount in advance monthly payments of the premium tax credit, as well as cost-sharing reductions, to be applied towards the cost of a qualified health plan purchased through NSYOH.

However, it might be disadvantageous to you and your daughter to be retroactively enrolled in a standard plan for the single month of December 2015. You might be paying for coverage that you were unfairly not given any opportunity to use.

Therefore, unless you choose to retroactively enroll in a qualified health plan for December 2015, it is found that your Medicaid coverage should not have ended on November 30, 2015, and that it should continue until December 31, 2015, after which time your coverage through the Essential Plan became effective.

The third issue under review is whether NYSOH properly determined that coverage in your Essential Plan for you and your daughter should end effective January 1, 2016.

The December 17, 2015 cancellation notice, issued in account number [REDACTED], stated that your coverage and your daughter's coverage in your Essential Plan under that NYSOH account number would end effective January 1, 2016 because you and your daughter were no longer eligible to enroll in health insurance through NY State of Health. This determination appears to have been caused when NYSOH erroneously updated both of your NYSOH accounts, rather than deactivating one. Because of the conflicting determinations regarding coverage and enrollment in the two accounts, the system improperly found you were not eligible for coverage.

Therefore, the December 17, 2015 cancellation notice in account number [REDACTED] was not correct and is RESCINDED.

Your case is being RETURNED to NYSOH in order to deactivate your family's second account and to facilitate your proper enrollment, in Medicaid for December 2015 (unless you opt for different coverage), and in the Essential Plan effective January 1, 2016.

Decision

The November 17, 2015 eligibility determination and the November 23, 2015 disenrollment notice that followed that eligibility determination, both filed in account number [REDACTED], are RESCINDED, because they were improperly based on a finding that you had not timely updated your account.

The November 10, 2015 eligibility determination in [REDACTED] stating that you and your daughter were eligible for the Essential Plan was correct with regard to coverage effective January 1, 2016; however, it is MODIFIED to reflect that it should have been issued in account number [REDACTED]

The December 17, 2015 cancellation notice issued from [REDACTED] is not correct and is RESCINDED.

Your case is RETURNED to NYSOH to deactivate your family's second account and to facilitate your proper enrollment, in Medicaid for December 2015 (unless you opt for different coverage), and in the Essential Plan effective January 1, 2016.

Effective Date of this Decision: May 20, 2016

How this Decision Affects Your Eligibility

You and your daughter may select whether to have coverage through Medicaid restored for December 2015, or to retroactively enroll in a qualified health plan for that month.

You and your daughter were eligible to enroll in the Essential Plan based on the information that was listed in your application as of November 9, 2015, with a coverage start date of January 1, 2016.

Your case is being returned to facilitate your enrollment, and your daughter's enrollment, into coverage for December 2015, and in an Essential Plan, effective January 1, 2016, to ensure there is no gap in coverage.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services 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 U.S. Department of Health and Human Services. 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 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 November 17, 2015 eligibility determination and the November 23, 2015 disenrollment notice that followed that eligibility determination, both filed in account number [REDACTED], are RESCINDED, because they were improperly based on a finding that you had not timely updated your account.

The November 10, 2015 eligibility determination in [REDACTED] stating that you and your daughter were eligible for the Essential Plan was correct with regard to coverage effective January 1, 2016; however, it is MODIFIED to reflect that it should have been issued in account number [REDACTED].

The December 17, 2015 cancellation notice issued from [REDACTED] is not correct and is RESCINDED.

Your case is RETURNED to NYSOH to deactivate your family's second account and to facilitate your proper enrollment, in Medicaid for December 2015 (unless you opt for different coverage), and in the Essential Plan effective January 1, 2016.

You and your daughter may select whether to have coverage through Medicaid restored for December 2015, or to retroactively enroll in a qualified health plan for that month.

You and your daughter were eligible to enroll in the Essential Plan based on the information that was listed in your application as of November 9, 2015, with a coverage start date of January 1, 2016.

Your case is being returned to facilitate your enrollment, and your daughter's enrollment, into coverage for December 2015, and in an Essential Plan, effective January 1, 2016, to ensure there is no gap in coverage.

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 sending you this notice in accordance with 45 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).

A Copy of this Decision Has Been Provided To:

