



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

Notice of Decision

Decision Date: May 24, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005758

[REDACTED]

Dear [REDACTED]

On March 10, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 24, 2015 enrollment confirmation and cancellation notices and your request for a health insurance exemption for you and your spouse for 2016.

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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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 the enrollment of you and your spouse in the Essential Plan was effective February 1, 2016?

Did NYSOH properly disenroll you and your spouse from coverage in your qualified health plan for January 2016, once you updated your account?

Based on your interactions with the NY State of Health, do you and your spouse qualify for a health insurance exemption for 2016?

Procedural History

On June 13, 2015, NYSOH issued an enrollment confirmation notice stating that as of June 12, 2015 you and your spouse had enrolled in Healthfirst Silver. This notice also stated that your coverage could begin as early as July 1, 2015, provided your first month's premium payment was received.

On October 23, 2015, NYSOH issued a notice that it was time to renew your health insurance for 2016. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you or your spouse would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2015 or you and your spouse might lose the financial assistance you were currently receiving.

No updates were made to your account by December 15, 2015.

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On December 21, 2015, NYSOH issued an eligibility redetermination notice based on the information contained in the October 23, 2015 renewal notice. It stated that you and your spouse were eligible to enroll in a qualified health plan, at full cost, effective January 1, 2016.

Your enrollment details as of December 21, 2015 reflect that you had been reenrolled in the Healthfirst Silver plan, effective January 1, 2016; however, this change was not processed until December 23, 2015.

On December 22, 2015, you updated your application for health insurance.

That same day, NYSOH issued a preliminary eligibility determination based on the information contained in your December 22, 2015. It stated that both you and your spouse were eligible to enroll in the Essential Plan with a \$0.00 premium per month, effective February 1, 2016. No written notice of eligibility determination was issued by NYSOH in connection with the December 22, 2015 application or preliminary eligibility determination.

However, on December 24, 2015, NYSOH issued an enrollment confirmation notice, based on your plan selection on December 22, 2015, stating that you and your spouse were enrolled in an Essential Plan with Healthfirst, and that the plan coverage would begin February 1, 2016.

Also on December 24, 2015, NYSOH issued a cancellation notice confirming that you and your spouse's enrollment in Healthfirst Silver ended effective January 1, 2016, since you were no longer eligible to remain enrolled in this insurance coverage.

Finally, on December 24, 2015, you spoke to NYSOH's Account Review Unit and appealed (1) the start date of enrollment by you and your spouse in the Essential Plan insofar as it did not begin January 1, 2016 and (2) your eligibility for an exemption for tax penalty during 2016 as a result of not having been covered during January 2016.

On March 10, 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 support the following findings of fact:

- 1) When you failed to respond to the renewal notice, on December 21, 2015 you and your spouse were reenrolled in the Healthfirst Silver plan, at full cost, effective January 1, 2016.

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- 2) You submitted a revised application to NYSOH for financial assistance on December 22, 2015.
- 3) You testified, and the record reflects, that you and your spouse were found eligible for and enrolled in an Essential Plan on December 22, 2015, which was to become effective on February 1, 2016.
- 4) Coverage for you and your spouse under the Healthfirst Silver plan was terminated effective January 1, 2016. According to the December 24, 2015 cancellation notice, this was because you were no longer eligible to remain enrolled in that plan.
- 5) You testified that you and your spouse did not incur any out-of-pocket medical expenses during January 2016.
- 6) You testified that you and your spouse needed the Essential Plan coverage to begin on January 1, 2016 because you were concerned about incurring a tax penalty for not having had coverage during a portion of 2016.

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

Applicable Law and Regulations

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); 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)).

Eligibility to Enroll in a Qualified Health Plan

An applicant must generally be determined eligible to enroll in a qualified health plan through NYSOH if that applicant is a citizen of the United States, is not incarcerated, and is a resident of New York (45 CFR § 155.305(a)).

However, if an applicant is eligible to enroll in the Essential Plan, that applicant will not be eligible to enroll in a qualified health plan offered through NYSOH (42 USCS § 18051(e)(2)).

Exemptions

A shared responsibility payment may be imposed with respect to a non-exempt individual who does not maintain minimum essential coverage. However, a hardship exemption from this payment may be granted to an applicant if it is determined that certain circumstances existed (45 CFR § 155.605(d)).

Pursuant to federal regulations, NYSOH may defer to the US Department of Health and Human Services (HHS) on the matter of hardship exemptions (45 CFR § 155.625(c)), and it has elected to do so.

Legal Analysis

The first issue is whether NYSOH properly determined that your enrollment in the Essential Plan was effective February 1, 2016.

The credible evidence of record reflects that you contacted NYSOH on December 22, 2015 and enrolled you and your spouse into an Essential Plan with Healthfirst.

The date on which an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

Generally, a plan that is selected from up 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 after the fifteenth day of the month goes into effect on the first day of the second following month.

On December 22, 2015 you selected an Essential Plan, so it properly took effect on the first day of the second following month; that is, on February 1, 2016.

Therefore, the December 24, 2015 enrollment confirmation notice stating that the enrollment of you and your spouse in the Essential Plan was effective February 1, 2016, is correct and is **AFFIRMED**.

The second issue under review is whether NYSOH properly disenrolled you and your spouse from coverage in your qualified health plan for January 2016, once you updated your account and were found prospectively eligible for the Essential Plan.

When an appellant is found eligible to enroll in the Essential Plan, that individual is no longer eligible to enroll in a regular, qualified health plan through NYSOH. However, in the current case, NYSOH did not find that you were eligible to enroll in the Essential Plan until February 1, 2016, and your eligibility to remain enrolled in your qualified health plan, at full cost, did not end until January 31, 2016.

Therefore, the December 24, 2015 cancellation notice is incorrect.

The third issue is whether you and your spouse qualify for a health insurance exemption for 2016.

New York has opted not to provide determinations on whether applicants are eligible for exemptions to the shared responsibility payment. Therefore, if you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, check the Federal Marketplace website (www.healthcare.gov) for further information.

Decision

NYSOH did not err in beginning the enrollment of you and your spouse in the Essential Plan effective February 1, 2016.

The December 24, 2015 enrollment confirmation notice is **AFFIRMED**.

The December 24, 2015 cancellation notice is **RESCINDED**, and the matter is returned to NYSOH to assist you in determining whether you wish to enroll in your qualified health plan at full cost for January 2016.

NYSOH does not currently make determinations as to applicants' eligibility for an exemption from a shared responsibility payment.

Effective Date of this Decision: May 24, 2016

How this Decision Affects Your Eligibility

The effective date of coverage for you and your spouse in the Essential Plan remains February 1, 2016.

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 being returned to NYSOH to assist you in determining coverage for January 2016.

If you wish to pursue an exemption, you must apply through the federal government.

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:
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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

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Summary

NYSOH did not err in beginning the enrollment of you and your spouse in the Essential Plan effective February 1, 2016.

The December 24, 2015 enrollment confirmation notice is AFFIRMED.

The December 24, 2015 cancellation notice is RESCINDED, and the matter is returned to NYSOH to assist you in determining whether you wish to enroll in your qualified health plan at full cost for January 2016.

NYSOH does not currently make determinations as to applicants' eligibility for an exemption from a shared responsibility payment.

The effective date of coverage for you and your spouse in the Essential Plan remains February 1, 2016.

Your case is being returned to NYSOH to assist you in determining coverage for January 2016.

If you wish to pursue an exemption, you must apply through the federal government.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

