



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

Notice of Decision

Decision Date: June 8, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005940

[REDACTED]

Dear [REDACTED],

On March 29, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 1, 2016 eligibility determination 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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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 enrollment in the Essential Plan was effective February 1, 2016?

Did NYSOH properly determine that you were disenrolled from your full-cost qualified health plan, effective January 1, 2016?

Procedural History

On November 5, 2014, NYSOH issued a renewal notice stating that you and your daughter were re-enrolled in your silver level qualified health plan (QHP), eligible to receive advance payment of the premium tax credits (APTC) of up to \$534.94 per month, and eligible for cost-sharing reductions (CSR), effective January 1, 2015.

On September 19, 2015, NYSOH issued a disenrollment notice stating that your daughter's coverage in your QHP was terminated effective October 31, 2015 because she was no longer eligible for coverage under your plan because she had turned 26 years old.

That same day, NYSOH issued an enrollment confirmation notice confirming your enrollment in an individual silver level QHP, with a monthly premium of \$166.22 after APTC of \$267.47 was applied, effective November 1, 2015.

On October 1, 2015, your application was updated.

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On October 2, 2015, NYSOH issued an eligibility determination stating that you were eligible for Medicaid, effective October 1, 2015.

That same day, NYSOH issued a disenrollment notice stating that your coverage in your individual silver level QHP would end effective October 31, 2015.

Also on October 2, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a Medicaid Managed Care (MMC) plan, effective November 1, 2015.

On October 9, 2015, your application was updated again.

On October 10, 2015, NYSOH issued an eligibility determination, based on your October 9, 2015 application, stating that you were no longer eligible for Medicaid, however, your coverage would continue until September 30, 2016.

On October 27, 2015, your account was updated again.

On October 28, 2015, NYSOH issued a disenrollment notice stating that your Medicaid Fee-For-Service coverage would be discontinued effective October 31, 2015.

That same day, NYSOH issued an eligibility determination, based on your October 27, 2015 application, stating that you were eligible to receive APTC of up to \$268.72 per month, effective November 1, 2015, and eligible for CSR, effective November 1, 2015.

Also on October 28, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled in an individual silver level QHP, effective October 1, 2015, and your APTC would be applied to your monthly premium effective October 1, 2015.

On November 7, 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 would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2015, or you might lose the financial assistance you were currently receiving.

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

On December 21, 2015, NYSOH issued an eligibility determination stating that you were newly eligible to purchase a QHP at full cost, effective January 1, 2016, and not eligible for financial assistance because you had not responded to the renewal notice and had not completed your renewal within the required timeframe.

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On December 22, 2015, NYSOH issued a disenrollment notice stating that your coverage in your current QHP would end effective December 31, 2015 because you were no longer eligible to remain enrolled in your current health insurance.

That same day, NYSOH issued an enrollment confirmation notice stating that you were enrolled in an individual silver level QHP with a monthly premium of \$509.36, effective January 1, 2016.

On December 31, 2015, you updated your NYSOH account.

On January 1, 2016, NYSOH issued an eligibility determination, based on your December 31, 2015 application, stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective February 1, 2016.

That same day, NYSOH issued an enrollment confirmation notice, based on your plan selection on December 31, 2015, confirming your enrollment in an Essential Plan with dental and vision coverage, with a monthly premium of \$46.45, effective February 1, 2016.

Also on January 1, 2016, NYSOH issued a cancellation notice stating that your coverage in your full cost QHP would end effective January 1, 2016 because you were no longer eligible to enroll in your current health insurance.

On January 4, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential Plan, insofar as it did not begin on January 1, 2016.

On March 29, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open at the end of the hearing so that you could submit proof that you paid a premium for your QHP for the month of January 2016, and proof that it was refunded to you. On April 9, 2016, you faxed a 3-page (including the cover page) document, described below, that is marked Appellant's Exhibit One (1). The record is now closed.

Findings of Fact

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

- 1) You testified that you are filing this appeal because you are seeking coverage for the month of January 2016.
- 2) You testified, and the record reflects, that you receive notices from NYSOH via regular mail.

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- 3) You testified that you received the November 7, 2015 renewal notice.
- 4) The record reflects that, between September 19, 2015 and October 28, 2015, you received notices informing you that you were: disenrolled from your QHP with APTC, and re-enrolled in an individual QHP with APTC; eligible for Medicaid and enrolled in a Medicaid Managed Care plan; not eligible for Medicaid, but enrolled in Medicaid continuous coverage, eligible to enroll in a QHP with APTC, and enrolled in a QHP with APTC.
- 5) You testified that, even though you received the November 7, 2015 renewal notice, you believed that you had already been renewed for coverage, since you had just received a notice on October 28, 2015 notifying you of your eligibility to enroll in a QHP with APTC and CSR, effective November 1, 2015.
- 6) You further testified that you received the notice in December notifying you that you had not renewed your coverage and were therefore only eligible for a QHP at full cost, and were prepared to pay the full premium.
- 7) You testified that when you did not receive a bill for the January premium from your health plan, you contacted them by phone on December 31, 2015.
- 8) You testified that, during that phone call on December 31, 2015, a supervisor from your health plan told you that your coverage was ending, but that you could pay the full premium for your QHP for January 2016 and you would have coverage. You testified that the supervisor also told you that you could appeal and if you won the appeal, the health plan could always refund the money.
- 9) After the hearing, you submitted a credit card statement showing a payment on December 31, 2015 of \$509.36 – the amount of your full monthly premium - made to “Empire BC-BC-1261023” (Appellant’s Exhibit One).
- 10) You testified that, after you spoke with your health plan on December 31, 2015, you contacted NYSOH that same day and updated your application, at which point you were found eligible for the Essential Plan. The record reflects that you also selected a plan for enrollment on December 31, 2015, with a plan start date of February 1, 2016.
- 11) You testified that, since you had paid your premium for coverage through your QHP for January 2016, you used your coverage and received medical treatment in January 2016.

- 12) You testified that, toward the end of January, you received a call from your health plan informing you that NYSOH informed them that you were not eligible for the plan you had been enrolled in during January, and that they were refunding the premium payment that you had made to them.
- 13) After the hearing, you submitted a copy of an envelope addressed to you from Empire Blue Cross Blue Shield, with a copy of a stub for a check number [REDACTED] with an issue date of January 19, 2016, in the amount of \$509.36, that states "Refund For ID# [REDACTED] Refund Effective Date: 01-01-2016, Refund Explanation: 51 Contract Cancelled" (Appellant's Exhibit One).

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); 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)).

Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

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NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible for enrollment in the Essential Plan, effective February 1, 2016.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual's eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On November 7, 2015, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you qualify for financial help with paying for your health coverage. You were asked to update the information in your account by December 15, 2015, or the financial help you were receiving might end.

You testified that you received the November 7, 2015 renewal notice, but believed that you had already been renewed for coverage. It is noted that, between September 19, 2015 and October 27, 2015, you were sent a total of nine notices regarding your health coverage from NYSOH. In the space of 38 days, you were notified that you were placed into a new, individual health plan, then that you were placed in Medicaid, then that you were no longer eligible for Medicaid but would continue to receive it for a year, and then that you were once again eligible for a QHP with APTC and CSR. Thus, your confusion when you received the November 7, 2015 renewal notice is entirely credible and understandable.

Because there was no timely response to the November 7, 2015 notice, your eligibility for financial assistance and your enrollment in a qualified health plan were terminated effective December 31, 2015. At the same time, you were notified that you could enroll in your QHP at full cost, with a monthly premium of

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\$509.36, and you were sent an enrollment confirmation notice confirming that you were enrolled in such coverage, effective January 1, 2016.

You testified that, even though you were not clear as to why you were no longer receiving financial assistance from NYSOH, you still wanted coverage. When you did not receive a bill for your January 2016 coverage, you took the prudent step of contacting your health plan on December 31, 2015.

During your phone call with your health plan, you were informed that you were no longer eligible for coverage, according to NYSOH. However, you were told that you could still pay the full premium and have coverage for January 2016, and you did so. The credit card statement you submitted is evidence that you made this payment of \$509.36 on December 31, 2015, thereby intending to continue your QHP coverage for January 2016. (Appellant's Exhibit One).

You testified that, as soon as you finished your conversation with your health plan on December 31, 2015, you called NYSOH and updated your account. You were found eligible for the Essential Plan, and you immediately selected a plan with a start date of February 1, 2016.

Ordinarily, 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. Therefore, it would follow that, since you selected your plan on December 31, 2015, it would go into effect on February 1, 2016.

However, in your case, you have testified credibly that you believed the November 7, 2015 renewal notice to be a redundancy, and believed yourself to have already renewed your coverage, based on the October 28, 2015 eligibility determination. As the record contains a plethora of notices from September and October 2015 regarding your eligibility, your belief was plausible, and your failure to renew your coverage by December 15, 2015 is therefore excused.

You first updated your NYSOH account for 2016 on December 31, 2015, and therefore we must assume that this is the information that would have been used had you updated your account within the renewal timeframe.

Therefore, the January 1, 2016 eligibility determination notice is MODIFIED to state that you were *eligible* for the Essential Plan, effective January 1, 2016.

The second issue under review is whether NYSOH properly disenrolled you from your full-cost QHP, effective January 1, 2016, because you were no longer eligible to enroll in your current health insurance.

As previously stated, the date on which an *enrollment* in an Essential Plan can take effect depends on the date on which an individual selects the plan for enrollment. As discussed, you selected your plan on December 31, 2015, which would have given you a February 1, 2016 start date.

Therefore, since, according to the January 1, 2016 eligibility determination, your eligibility for the Essential Plan did not begin until February 1, 2016, NYSOH improperly terminated your coverage through your full-cost silver level QHP as of January 1, 2016. You remained eligible for coverage through a full-cost QHP until January 31, 2016.

The January 1, 2016 cancellation notice is therefore MODIFIED to state that you remain eligible for coverage in your full-cost QHP until January 31, 2016.

Ordinarily, your case would be returned to effectuate your enrollment in the Essential Plan, effective January 1, 2016. However, you paid premiums for January 2016 and used your coverage with the understanding that you were enrolled in a QHP, and it is not clear that the Essential Plan will provide the same coverage for the medical costs you incurred in January 2016.

Therefore, your case is RETURNED to NYSOH to facilitate your enrollment in either the Essential Plan, or your full-cost silver level QHP, for the month of January 2016, based on your preference.

It is important to note that you will need to pay the requisite premium and applicable deductible/copay/etc. for whichever coverage you choose.

Decision

The January 1, 2016 eligibility determination is MODIFIED to state that you were *eligible* to enroll in the Essential Plan, effective January 1, 2016.

The January 1, 2016 disenrollment notice is MODIFIED to state that you remain eligible for coverage through your full-cost silver level QHP through January 31, 2016.

Your case is RETURNED to NYSOH to facilitate your enrollment in the coverage of your choosing for the month of January 2016. NYSOH is directed to contact you to ensure this process is completed.

NYSOH will issue a notice in writing confirming your enrollment for the month of January 2016, once enrollment has been completed.

Effective Date of this Decision: June 8, 2016

How this Decision Affects Your Eligibility

You may, at your discretion, choose to enroll in either the Essential Plan, or the full-cost, silver level QHP you were previously enrolled in, for the month of January 2016.

NYSOH will contact you to facilitate your enrollment in your chosen coverage, if any, for January 2016.

You will be responsible for premiums, deductibles, and co-pays for any coverage you choose to enroll in.

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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- By fax: 1-855-900-5557

Summary

The January 1, 2016 eligibility determination is MODIFIED to state that you were eligible to enroll in the Essential Plan, effective January 1, 2016.

The January 1, 2016 disenrollment notice is MODIFIED to state that you remain eligible for coverage through your full-cost silver level QHP through January 31, 2016.

Your case is RETURNED to NYSOH to facilitate your enrollment in the coverage of your choosing for the month of January 2016. NYSOH is directed to contact you to ensure this process is completed.

NYSOH will issue a notice in writing confirming your enrollment for the month of January 2016, once enrollment has been completed.

You may, at your discretion, choose to enroll in either the Essential Plan, or the full-cost, silver level QHP you were previously enrolled in, for the month of January 2016.

NYSOH will contact you to facilitate your enrollment in your chosen coverage, if any, for January 2016.

You will be responsible for premiums, deductibles, and co-pays for any coverage you choose to enroll in.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

