



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

Notice of Decision

Decision Date: June 28, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005985

[REDACTED]

Dear [REDACTED],

On April 14, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health’s January 6, 2016 eligibility determination and enrollment confirmation notices and March 15, 2016 eligibility determination and disenrollment 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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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 enrollment in the Essential Plan was effective February 1, 2016?

Did NYSOH properly determine that you no longer qualified for health coverage, effective February 1, 2016?

Procedural History

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 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 update to your NYSOH account was received by December 15, 2015.

On December 21, 2015, NYSOH issued a notice of eligibility determination, stating that you were newly eligible to purchase a qualified health plan at full cost through NYSOH. This eligibility determination was effective January 1, 2016.

On January 5, 2016, your application was revised twice.

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On January 6, 2016, NYSOH issued a notice of eligibility determination, based on the last revised application submitted on January 5, 2016, stating that you were eligible to enroll in the Essential Plan, effective February 1, 2016.

Also on January 6, 2016, NYSOH issued a notice of enrollment, based on your plan selection on January 5, 2016, stating that you were enrolled in an Essential Plan, and that your plan would start February 1, 2016. You spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential insofar as it did not begin January 1, 2016.

On February 12, 2016, NYSOH issued a notice to the Estate of [REDACTED] stating that NYSOH had recently received information that [REDACTED] was deceased. The notice further stated that your coverage would be cancelled effective December 31, 2015. You were requested to contact NYSOH by March 8, 2016 if this information was not correct.

On March 15, 2016, NYSOH issued an eligibility redetermination notice stating that you no longer qualified for coverage through NYSOH because federal data sources show that you were deceased. It further stated that your eligibility would end effective February 1, 2016.

Also on March 15, 2016, NYSOH issued a disenrollment notice stating that your Essential Plan coverage ended effective February 1, 2016. This notice was issued because you were no longer eligible to enroll in health insurance through NYSOH.

On April 14, 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) The record reflects that you receive all of your notices from NYSOH by regular mail.
- 2) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 3) You revised your application on January 5, 2016.
- 4) You testified, and the record reflects, that you enrolled in an Essential Plan on January 5, 2016. Your coverage under the Essential Plan began on February 1, 2016.

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- 5) You testified that you wanted your enrollment in the Essential Plan to begin on January 1, 2016.
- 6) You were disenrolled from the Essential Plan, effective February 1, 2016, since NYSOH was not able to confirm you were not deceased.
- 7) You testified, and the record reflects, that the Social Security Administration (SSA) inadvertently listed you as deceased, when in fact it was your son [REDACTED] who passed away on [REDACTED]. You further testified that you have since rectified this error with SSA, and that you were seeking a reinstatement of your Essential Plan coverage.

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

Applicable Law and Regulations

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)).

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.

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

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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)).

Verification of Eligibility to Enroll through NYSOH

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including when the Social Security Administration indicates that the person is deceased (45 CFR § 155.315(b)(2)).

If the NYSOH verify the information required to determine eligibility for enrollment in a QHP, NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5 day period. (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the information required to determine the Appellant's eligibility after the 90 day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your enrollment in the Essential Plan was 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 October 23, 2015, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources,

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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.

Because there was no timely response to this notice, your eligibility for financial assistance was terminated effective December 31, 2015.

Your NYSOH account confirms that you elected to receive notifications via regular mail. However, there is no evidence in the record that any of the notices, including the October 23, 2015 renewal notice, which were sent to your mailing address were returned as undeliverable.

Therefore, the record reflects that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated by December 15, 2015 in order to ensure your enrollment in your health plan and eligibility for financial assistance would continue without interruption.

The record shows that January 5, 2016 you updated the information in your NYSOH account and submitted an application for financial assistance. Based on the information contained in the last application submitted on January 5, 2016, you were found eligible to enroll in the Essential Plan, effective February 1, 2016. You selected an essential plan on that same date.

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.

On January 5, 2016, you selected an Essential Plan, so your enrollment properly took effect on the first day of the first month following January 5, 2016; that is, on February 1, 2016.

Therefore, the January 6, 2016 eligibility determination and enrollment confirmation notices stating that your eligibility for an enrollment in the Essential Plan was effective February 1, 2016, is correct and must be AFFIRMED.

The second issue under review is whether NYSOH properly determined that you no longer qualified for health coverage, effective February 1, 2016, because you were deceased.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that they are not deceased.

If NYSOH cannot verify the information sought, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency. For purposes of verifying citizenship, notice is considered received 5 days after the date on the notice.

In the eligibility determination issued on February 12, 2016, your estate was advised that you no longer qualified for health coverage because federal data sources showed that you were deceased. The notice further requested that you contact NYSOH by March 8, 2016 if this was not the case.

The record reflects that NYSOH did not receive an update to your account before this deadline.

NYSOH issued a subsequent eligibility determination and disenrollment notice on March 15, 2016 stating that you were no longer eligible for coverage through the NYSOH because you were deceased. The notice further stated that your coverage ended effective February 1, 2016.

You credibly testified, and the record reflects, that the Social Security Administration (SSA) inadvertently listed you as deceased, when in fact it was your son [REDACTED] who passed away on [REDACTED]. You further testified that you have since rectified this error with SSA, and that you were seeking a reinstatement of your Essential Plan coverage.

Since the credible evidence of record reflects that you were not deceased, and NYSOH did not provide you the requisite 90-day period in which to provide information to confirm your eligibility for health insurance through NYSOH, the February 12, 2016 eligibility determination notice and the March 15, 2016 eligibility determination and disenrollment notices were issued in error and must be RESCINDED.

Furthermore, your case is RETURNED to NYSOH to reinstate your Essential Plan coverage as of February 1, 2016.

Decision

The January 6, 2016 eligibility determination and enrollment confirmation notices are AFFIRMED.

The February 12, 2016 eligibility determination notice and the March 15, 2016 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your Essential Plan coverage as of February 1, 2016.

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Effective Date of this Decision: June 28, 2016

How this Decision Affects Your Eligibility

Your Essential Plan coverage is reinstated as of February 1, 2016.

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

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Summary

The January 6, 2016 eligibility determination and enrollment confirmation notices are **AFFIRMED**.

The February 12, 2016 eligibility determination notice and the March 15, 2016 eligibility determination and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your Essential Plan coverage as of February 1, 2016.

Your Essential Plan coverage is reinstated as of February 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

