



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

Notice of Decision

Decision Date: May 27, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006024

[REDACTED]

Dear [REDACTED],

On April 6, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health’s January 5, 2016 eligibility determination.

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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NY State of Health Account ID: [REDACTED]
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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 you were eligible to enroll in the Essential Plan effective February 1, 2016?

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

Procedural History

On October 23, 2015, NYSOH issued a notice stating 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 notice stating that you were newly eligible to purchase a qualified health plan (QHP) at full cost through NYSOH, effective January 1, 2016. That same notice stated that you were not eligible for Medicaid, Child Health Plus, the Essential Plan, or to receive advance payment of the premium tax credits (APTC) 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 23, 2015, you updated your NYSOH account, and uploaded documents to your NYSOH account regarding your 2014 tax return.

Also on December 23, 2015, NYSOH also issued an enrollment confirmation notice stating that you were reenrolled in your QHP with a \$553.40 monthly premium, effective January 1, 2016, and reenrolled in your dental plan with a \$19.99 monthly premium, effective January 1, 2016.

That same day, NYSOH issued a disenrollment notice stating that your 2015 enrollment in your QHP and your dental plan would end effective December 31, 2015.

On December 24, 2016, NYSOH issued a notice stating that they had reviewed your December 23, 2015 application for health insurance, and that you might be eligible for health insurance through NYSOH, but more information was needed to make a determination.

Also on December 24, 2015, NYSOH issued a disenrollment notice, stating that your enrollment in your QHP and dental plan would end, effective January 1, 2016.

On January 4, 2016, you updated your NYSOH account again.

On January 5, 2016, NYSOH issued an eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, and needed to provide additional information about your income to confirm your eligibility. Your eligibility was effective as of February 1, 2016.

Also on January 5, 2016, NYSOH sent an enrollment confirmation notice that stated that you were enrolled in an Essential Plan with a premium of \$30.77 per month, effective February 1, 2016.

On January 6, 2016, NYSOH sent an eligibility determination notice stating that you were eligible for the Essential Plan, effective February 1, 2016.

Also on January 6, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you were not eligible for APTC as of January 1, 2016 and going forward.

On April 6, 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) You testified that you expect to file your 2016 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 2) You are seeking insurance for yourself.
- 3) You testified, and the record reflects, that you receive notices from NYSOH by regular mail.
- 4) There is no indication in the record that you ever changed your preferences regarding how you receive notices from NYSOH, and you testified that you have always received notices by regular mail.
- 5) You testified that you did not receive the October 23, 2015 renewal notice in the mail.
- 6) You further testified that, in December 2015, you discovered that you had received an email alert for a notice that your coverage was ending December 31, 2015. At that same time, you then noticed that an email had also been sent to you in October 2015 regarding a renewal notice.
- 7) You testified that you never saw this October 2015 email because you were not expecting to receive notices by email from NYSOH, as you have always received notices by regular mail.
- 8) The application that was submitted on January 4, 2016, which requested financial assistance, listed annual household income of \$23,244.00, consisting of income you earn from self-employment. The application also stated that you plan to take \$7,000.00 in deductions. You testified that these amounts were estimations based on your 2015 income.
- 9) You testified that you are seeking to be eligible to enroll in a QHP with APTC instead of being eligible for the Essential Plan because your doctors do not accept any Essential Plan coverage.
- 10) Your application states that you live in Kings County.

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 projected eligibility and 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

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 for 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 \$11,770.00 for a one-person household (80 Federal Register 3236, 3237).

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as

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approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The Essential Plan is considered minimum essential coverage, therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

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 (N.Y. 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)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or 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 (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

Legal Analysis

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

The application that was submitted on January 4, 2016 listed an annual household income of \$16,244.00 after deductions, and the eligibility determination relied upon that information.

You are in a one-person household. You expect to file your 2016 income taxes as single and expect to claim no dependents on that tax return.

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The Essential Plan is 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. On the date of your application, the relevant FPL was \$11,770.00 for a one-person household. Since an annual household income of \$16,244.00 is 138.01% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan.

An individual who requests financial assistance and is eligible to enroll in the Essential Plan is not eligible to receive advance payments of the premium tax credit (APTC) to subsidize the purchase of a qualified health plan because they are considered already eligible for minimum essential coverage through NYSOH. Since you are eligible for the Essential Plan, NYSOH properly found you to be not eligible for APTC.

Ordinarily, the effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. If an individual selects a plan between the first and fifteenth day of the month, coverage begins on the first day of the following month. Since you selected a plan on January 4, 2016, your coverage was effective on February 1, 2016.

However, you testified that you never received a renewal notice in the mail, even though the record reflects that you are signed up to receive notices from NYSOH by regular mail. You further testified that you discovered in December 2015 that NYSOH sent you an email in October 2015 regarding the renewal notice. You testified that you saw this email when you found a December 2015 email from NYSOH regarding the termination of your coverage as of December 31, 2015.

Since NYSOH sent you an email alert to notify you of the notice regarding the need to renew your account, instead of sending you a notice by regular mail (the preference indicated in your NYSOH account), it is concluded that NYSOH did not give you proper notice of the need to update your account.

You first renewed your application for financial assistance through NYSOH on January 4, 2016, and therefore we must assume that this 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.

Therefore, the January 5th and 6th eligibility redetermination notices are MODIFIED to state that, effective January 1, 2016, you were eligible for a limited time and eligible to enroll in the Essential Plan.

Your case is RETURNED to NYSOH to facilitate your enrollment in Essential Plan coverage for the month of January 2016, should you choose to enroll in coverage for January 2016.

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Decision

The January 5 and January 6, 2015 eligibility determination notices are MODIFIED to state that your eligibility to enroll in the Essential Plan is effective as of January 1, 2016.

Your case is RETURNED to NYSOH to facilitate your enrollment in Essential Plan coverage for January 2016, should you choose to enroll in a plan for January 2016.

Effective Date of this Decision: May 27, 2016

How this Decision Affects Your Eligibility

You are eligible for the Essential Plan effective January 1, 2016.

You are not eligible for APTC because you are eligible for the Essential Plan.

Your case is being sent back to NYSOH to assist you with enrolling in Essential Plan for the month of January 2016, should you choose to do so.

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.

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If You Have Questions about this Decision (Customer Service Resources):

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- 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 January 5 and January 6, 2015 eligibility determination notices are MODIFIED to state that your eligibility to enroll in the Essential Plan is effective as of January 1, 2016.

Your case is RETURNED to NYSOH to facilitate your enrollment in Essential Plan coverage for January 2016, should you choose to enroll in a plan for January 2016.

You are eligible for the Essential Plan effective January 1, 2016.

You are not eligible for APTC because you are eligible for the Essential Plan.

Your case is being sent back to NYSOH to assist you with enrolling in Essential Plan for the month of January 2016, should you choose to do so.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

