



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

Notice of Decision

Decision Date: June 10, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006083

[REDACTED]

Dear [REDACTED]

On April 8, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 8, 2016 eligibility determination, disenrollment, and enrollment confirmation 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 Unit
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 and your spouse's eligibility for and enrollment in the Essential Plan was effective no earlier than February 1, 2016?

Did NYSOH properly determine that your and your spouse's full pay qualified health plan ended effective January 31, 2016?

Procedural History

On October 15, 2015, a NYSOH account was created on your behalf.

On October 16, 2015, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to receive up to \$604.00 in advance payments of the premium tax credit (APTC), as well as cost-sharing reductions, effective November 1, 2015.

Also on October 16, 2015, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a qualified health plan and that the plan would start November 1, 2015.

On October 28, 2015, the income information in your account was updated.

On October 29, 2015, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to receive up to \$530.00 in APTC, as well

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as cost-sharing reductions, effective December 1, 2015. Your children were found eligible to enroll in a plan through Child Health Plus, at a cost of \$9.00 per month each, effective December 1, 2015.

On November 7, 2015, NYSOH issued a notice that it was time to renew your family's 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 and your spouse would qualify for financial help paying for your health coverage, and that you needed to update your account between November 16, 2015 and December 15, 2015. If you did not update the information in your account by December 15, 2015, 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 and your spouse were newly eligible to purchase a qualified health plan at full cost, effective January 1, 2016. The notice also stated that you and your spouse were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance because you had not responded to the renewal notice and had not completed your renewal within the required time frame.

On December 23, 2015, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled into your qualified health plan effective January 1, 2016 with a total cost of \$1,151.05 per month and no APTC or cost-sharing reductions.

On January 7, 2016, your NYSOH account was updated.

On January 8, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were eligible to enroll in the Essential Plan. This eligibility was effective February 1, 2016.

Also on January 8, 2016, NYSOH issued a letter confirming your and your spouse's enrollment in the Essential Plan effective February 1, 2016.

Also on January 8, 2016, NYSOH issued a disenrollment notice stating that you and your spouse were terminated from your qualified health plan effective January 31, 2016.

Finally on January 8, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your Essential Plan insofar as it did not begin January 1, 2016.

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On April 8, 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) You testified that you first applied for coverage through NYSOH in October 2015.
- 2) You testified that since you applied in October 2015, you thought your coverage would last for a full year and that you would not need to renew your coverage until October 2016.
- 3) You testified that you updated your income information at the end of October 2015 to confirm your income for the upcoming year.
- 4) When you updated your account on October 25, 2016 for what you thought was the upcoming coverage year, you received an eligibility determination that said you qualified to select a plan outside the open enrollment period, and that you should select a plan no later than November 29, 2015. Since you had already selected a plan, you did not think it was necessary to do so again for the upcoming year.
- 5) Your NYSOH account indicates that you receive notices from NYSOH by regular mail.
- 6) You testified that you did not receive the renewal notice stating that you needed to update your NYSOH Account. You further testified that you received all of the other notices from NYSOH.
- 7) The November 7, 2015 notice stated that no decision could be made about whether your children would qualify for continuing financial assistance, and that you needed to update your application.
- 8) The record indicates that you and your spouse were auto-enrolled into a qualified health plan for the month of January 2016 by NYSOH's computer system.

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, as they relate to redeterminations made mid-benefit year.

For the benefit year beginning on January 1, 2016, the annual open enrollment period began on November 1, 2015 and ended on January 31, 2016 (45 CFR § 155.410(e)(2)).

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)).

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Child Health Plus

A child who meets the eligibility requirements for Child Health Plus (CHP) remains eligible for such coverage until the last day of the twelfth month following the eligibility start date, unless the CHP premiums are not timely paid or child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law § 2510(6)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your spouse's eligibility for and 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 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 you, your spouse, and your children would 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 and your spouse's eligibility for APTC and cost-sharing reductions were terminated as of December 31, 2015 and you were enrolled into a full pay qualified health plan for the month of January 2016.

You testified that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that the renewal notice was actually mailed to you by New York State of Health.

You also testified that you first applied for coverage through NYSOH in October 2015. You testified that because you had applied in October 2015, you thought your coverage would last for a full year and that you would not need to renew your coverage until October 2016. You also testified that you updated your

income information at the end of October 2015 to confirm your income for the upcoming year.

It is found that the November 7, 2015 notice sent to you, which requested that you update your account, did not acknowledge that you had only recently enrolled in insurance through the Marketplace, and that your coverage had not even begun until November 1, 2015. Additionally, the notice also stated incorrectly that your children's application needed to be updated, even though no renewal notice should have been sent out regarding their coverage in a Child Health Plus plan until the end of the 12-month eligibility period.

Given the above, as well as the fact that your coverage only became effective November 1, 2015, which marked the beginning of the open enrollment period for the upcoming year, it was reasonable that you thought no further action was necessary so soon after you enrolled in a plan.

Therefore, the record reflects that NYSOH did not provide you with a sufficiently explanatory renewal notice and that it was reasonable for you to assume that you would not need to renew only one month after first applying for coverage through NYSOH, when your coverage did not even go into effect until the first day of the open enrollment period.

You first renewed your eligibility for financial assistance through NYSOH for 2016 on January 7, 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 8, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, you and your spouse are eligible to enroll in the Essential Plan, and the January 8, 2016 notice of enrollment confirmation is MODIFIED to state that your and your spouse's enrollment in the Essential Plan is effective January 1, 2016.

The final issue under review is whether NYSOH properly determined that your and your spouse's full pay qualified health plan ended effective January 31, 2016.

On December 23, 2015 NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled into your qualified health plan effective January 1, 2016 with a total cost of \$1,151.05 per month and no APTC or cost-sharing reductions. The record indicates that you and your spouse were auto-enrolled into this plan by NYSOH's computer system. When you updated your NYSOH account in January 2016, you and your spouse were disenrolled from your qualified health plan effective January 31, 2016.

As noted above, you and your spouse should have been eligible for and enrolled in the Essential Plan as of January 1, 2016.

Ordinarily, the January 8, 2016 disenrollment notice would be modified to reflect that your and your spouse's coverage in a full pay qualified health plan was terminated effective December 31, 2015; however, because you did incur medical expenses that may or may not be covered by your Essential Plan, your case is RETURNED to NYSOH to assist you in determining whether you should retain your additional coverage for January 2016.

Decision

The January 8, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, you and your spouse are eligible to enroll in the Essential Plan.

The January 8, 2016 notice of enrollment confirmation is MODIFIED to state that your and your spouse's enrollment in the Essential Plan is effective January 1, 2016.

The January 8, 2016 disenrollment notice is MODIFIED to state that your and your spouse's coverage in a full pay qualified health plan is tentatively terminated effective December 31, 2015, pending a decision on your part as to whether you would like to retain that coverage for January 2016.

Your case is RETURNED to NYSOH to assist you in determining whether you should retain your additional coverage for January 2016.

Effective Date of this Decision: June 10, 2016

How this Decision Affects Your Eligibility

Your and your spouse's enrollment in the Essential Plan is effective as of January 1, 2016.

You will be able to choose whether you and your spouse will keep your coverage in your full-cost qualified health plan for January 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:
NYSOH Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The January 8, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, you and your spouse are eligible to enroll in the Essential Plan.

The January 8, 2016 notice of enrollment confirmation is MODIFIED to state that your and your spouse's enrollment in the Essential Plan is effective January 1, 2016.

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The January 8, 2016 disenrollment notice is MODIFIED to state that your and your spouse's coverage in a full pay qualified health plan is tentatively terminated effective December 31, 2015, pending a decision on your part as to whether you would like to retain that coverage for January 2015.

Your case is RETURNED to NYSOH to assist you in determining whether you should retain your additional coverage for January 2016.

Your and your spouse's enrollment in the Essential Plan is effective as of January 1, 2016.

You will be able to choose whether you and your spouse will keep your coverage in your full-cost qualified health plan for January 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

