



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

Notice of Decision

Decision Date: April 22, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006147

[REDACTED]

Dear [REDACTED],

On April 18, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 12, 2016 enrollment confirmation 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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Decision

Decision Date: April 22, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006147

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that your enrollment in an Essential Plan was effective February 1, 2016?

Procedural History

On October 22, 2015, NY State of Health (NYSOH) issued a renewal notice that stated, based on information from federal and state sources, a decision about whether or not you qualified for financial assistance in 2016 could not be made. By that notice, you were instructed to update your NYSOH account by December 15, 2015 and informed that, if you missed this deadline, the financial assistance you were currently getting might end.

Your NYSOH account was not updated by December 15, 2015.

On December 22, 2015, NYSOH issued a notice of eligibility redetermination that stated you were no longer eligible for financial assistance and could not enroll in a qualified health plan at full cost because “[y]ou did not respond to the renewal notice and did not complete your renewal within the required timeframe. As a result, you no longer qualify to receive financial assistance to help pay for your health coverage...Your eligibility will end effective December 31, 2015.”

Also on December 22, 2015, NYSOH issued a disenrollment notice confirming that your 2015 coverage in your YourCare Health Plan would end effective December 31, 2015.

On January 11, 2016, you updated your NYSOH account and were determined preliminarily eligible for the Essential Plan with an enrollment start date of February 1, 2016.

Also on January 11, 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 January 1, 2016.

On January 12, 2016, NYSOH issued a notice of eligibility redetermination stating that, based on your January 11, 2016 updated application, you were eligible to enroll in the Essential Plan, effective February 1, 2016.

Also on January 12, 2016, NYSOH issued an enrollment notice stating that you were enrolled in the Essential Plan you had selected on January 11, 2016, and that your plan would start February 1, 2016.

On April 18, 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) According to your NYSOH account, you elected to receive notices and information from NYSOH via regular mail.
- 2) You testified that your mailing address at all times relevant was the address listed on the address line above.
- 3) According to your NYSOH account, you were enrolled in Medicaid Managed Care plans throughout 2015.
- 4) You testified that you did not receive the October 22, 2015 NYSOH renewal notice in the mail.
- 5) You further testified that you did not receive the December 22, 2015 NYSOH notices of eligibility redetermination and disenrollment in the mail.
- 6) You testified that you learned you did not have health insurance coverage in January 2016 when you went for a physical therapy appointment in the

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beginning of January 2016 and were told your claims so far for that month had been denied.

- 7) You testified that you contacted NYSOH on January 11, 2016, and updated your application that same day.
- 8) As of January 11, 2016, your NYSOH application listed that your household consisted of you and your spouse and your annual household income consisted solely of your spouse's earnings of \$30,760.00. You testified that this was correct and was applicable before December 15, 2015, and would have been reported as such.
- 9) You testified that a NYSOH representative told you that email alerts were sent to your email account regarding the October 22, 2015 renewal notice and December 22, 2015 notices.
- 10) You testified that you were not aware that you needed to log onto your NYSOH account to view those notices because you elected to and had always in the past received notices and information by regular mail.
- 11) You testified, and the record reflects, that you enrolled in an Essential Plan on January 11, 2016, with a February 1, 2016 start date.
- 12) You testified that you wanted your enrollment in an Essential Plan to begin on January 1, 2016 because (1) you would have enrolled on time had you received the October 22, 2015 renewal notice in the mail, (2) you have medical conditions that require ongoing therapy, medication, and monitoring and you would not have let your health insurance lapse even for one month, and (3) you required treatment and medications in January 2016 so you incurred medical expenses that month that you need covered.

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, the Essential Plan, 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 individual's projected eligibility for the upcoming 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.

Electronic Notices

Effective no earlier than October 1, 2013 and no later than January 1, 2015, the agency (Marketplace) must provide individuals with a choice to receive notices and information ... in electronic format or by regular mail and must be permitted to change such election (42 CFR §435.918). If the applicant elects to receive notices and information by regular mail, NYSOH must send notices by that mode and in that manner (*Id.*)

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>).

Generally, 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)).

Legal Analysis

In 2015, you were enrolled in Medicaid Managed Care plans and had 12 months of continuous coverage through December 31, 2015.

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Generally, NYSOH must redetermine qualified individual's eligibility once every 12 months without requiring information from the individual, if it is able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's October 22, 2015 renewal notice stated in part that there was not enough information to determine whether you were eligible to continue to receive financial assistance for health insurance in 2016, and that you needed to supply additional information by December 15, 2015, or any such financial assistance might end.

Because there was no timely response to this notice, you were terminated from your Medicaid Managed Care plan, effective December 31, 2015, as stated in the December 22, 2015 notices of eligibility redetermination disenrollment.

However, you testified and the record reflects that you elected to receive notices from NYSOH via regular mail. You credibly testified that you did not receive the October 22, 2015 renewal notice in the mail that directed you to update the information in your Marketplace account and would have responded had you received that notice via regular mail. In addition, you credibly testified that when you spoke with a NYSOH representative on January 11, 2016, you were informed that you had been sent email alerts and not notices by regular mail. You credibly testified that you were not aware of and did not look for any email alerts and, therefore, you did not know you had to respond and did not react.

You were entitled to notice of the need to renew your application, and there is no evidence documenting that NYSOH sent you the requisite notices by regular mail, the mode of communication you had elected and had received notices by in the past. Although you were told that email alerts were sent instead, there is no evidence in your NYSOH account documenting that email alerts were sent to you which alerted you to notices available for your review in your account. Therefore, it is found that NYSOH improperly disenrolled you from your Medicaid Managed Care plan without timely and proper notice.

You first renewed your NYSOH application on January 11, 2016, which application reflects that your household consists of you and your spouse and your annual household income was solely from her earnings of \$30,760.00. You testified that this same information was applicable before December 15, 2015, and would have been provided had you been timely notified of the need to update your NYSOH account before then.

Therefore, the January 12, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, you were eligible to enroll in the Essential Plan, and the January 12, 2016 enrollment notice is MODIFIED to state that your enrollment in your Essential Plan is effective January 1, 2016.

You will be responsible for the monthly premium for January 2016.

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Decision

The January 12, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, you are eligible to enroll in the Essential Plan.

The January 12, 2016 enrollment notice is MODIFIED to state that your enrollment in your Essential Plan is effective January 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above and to notify you accordingly.

Effective Date of this Decision: April 22, 2016

How this Decision Affects Your Eligibility

Your eligibility for and enrollment in the Essential Plan you selected is being made effective as of January 1, 2016.

Your case is being sent back to NYSOH to enroll you into your Essential Plan as of January 1, 2016, and to notify you accordingly.

You will be responsible for the monthly premium 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

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

Summary

The January 12, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, you are eligible to enroll in the Essential Plan.

The January 12, 2016 enrollment notice is MODIFIED to state that your enrollment in your Essential Plan is effective January 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above and to notify you accordingly.

Your eligibility for and enrollment in the Essential Plan you selected is being made effective as of January 1, 2016.

Your case is being sent back to NYSOH to enroll you into your Essential Plan as of January 1, 2016, and to notify you accordingly.

You will be responsible for the monthly premium 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:

