

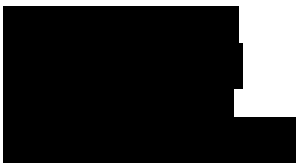


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: May 17, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006258



Dear [REDACTED],

On May 10, 2016, your Authorized Representative appeared by telephone at a hearing on your appeal of NY State of Health's January 7, 2016 eligibility determination 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
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 NY State of Health 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: May 17, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006258



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 eligibility for and enrollment in the Essential Plan was effective February 1, 2016?

Procedural History

On October 22, 2015, NY State of Health (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 a notice of eligibility determination stating that you were newly eligible to purchase a qualified health plan at full cost, effective January 1, 2016. You were not eligible for advance premium tax credits or the Essential Plan because you had not responded to the renewal notice and had not completed your renewal within the required time frame.

On January 6, 2016, NYSOH received your updated application for health insurance.

On January 7, 2016, NYSOH issued a notice of eligibility redetermination stating that you were eligible to enroll in the Essential Plan. This eligibility was effective February 1, 2016.

On January 7, 2016, NYSOH issued a letter confirming your enrollment in an Essential Plan starting February 1, 2016.

On January 15, 2016 you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it began your financial assistance eligibility and enrollment in the Essential Plan on February 1, 2016 and not January 1, 2016.

On May 5, 2016, you had a telephone hearing scheduled with a Hearing Officer from NYSOH's Appeals Unit. You requested that your hearing be adjourned to a later date.

On May 10, 2016 you had your adjourned telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you appointed [REDACTED] as your Authorized Representative and she testified on your behalf. 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 indicates that you elected to receive all of your NYSOH notices by regular mail.
- 2) The record indicates that a NYSOH representative entered your address as [REDACTED] Malverne NY and all of the notices were addressed to this address.
- 3) Your Authorized Representative testified that your address is [REDACTED] Malverne, NY.
- 4) Your Authorized Representative testified that you have never received any communication by mail from NYSOH
- 5) Your Authorized Representative testified that you attempted to pay for your qualified health plan coverage in the month of January but the carrier would not accept the payment.

- 6) Your Authorized Representative testified that you have no medical bills from the month of January but she is afraid that you may be billed for a full price qualified health plan premium.
- 7) Your Authorized Representative testified that you would like your Essential Plan backdated for the month of January.
- 8) You are eligible and enrolled in Medicare as of March 1, 2016 and thus no longer need coverage through NYSOH.

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

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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

The issue under review is whether NYSOH properly determined that your 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 October 22, 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.

Because there was no timely response to this notice, your eligibility for financial assistance and your enrollment in a qualified health plan was terminated effective December 31, 2015.

However, your Authorized Representative credibly testified that you have never received any communication by mail from NYSOH informing you of the status of your account. Furthermore, the record indicates that a NYSOH representative entered your address as [REDACTED] Malberne NY and all of the notices were addressed to this address. Your Authorized Representative testified that your address is actually [REDACTED] Malverne, NY.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account because the notices were not addressed to the correct address and you were not aware of the error.

You first renewed your eligibility for financial assistance through NYSOH for 2016 on January 6, 2016, and therefore we must assume that this is the information

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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 7, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, you are eligible for the Essential Plan, and the January 7, 2016 notice of enrollment confirmation is MODIFIED to state that your enrollment in your Essential Plan is effective January 1, 2016.

You will be responsible for the Essential Plan premium for the month of January.

Decision

The January 7, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, you are eligible for the Essential Plan.

The January 7, 2016 notice of enrollment confirmation 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.

This decision has no effect on your disenrollment from the Essential Plan as of February 29, 2016 as a result of you becoming eligible for Medicare.

Effective Date of this Decision: May 17, 2016

How this Decision Affects Your Eligibility

Your eligibility for and enrollment in your Essential Plan is effective as of January 1, 2016.

Your case is being sent back to NYSOH to effectuate this change.

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.

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

Summary

The January 7, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, you are eligible for the Essential Plan.

The January 7, 2016 notice of enrollment confirmation is MODIFIED to state that your enrollment in your Essential Plan is effective January 1, 2016.

Your case is being sent back to NYSOH to effectuate this change.

This decision has no effect on your disenrollment from the Essential Plan as of February 29, 2016 as a result of you becoming eligible for Medicare.

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:

