



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

Notice of Decision

Decision Date: August 08, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006609



Dear [REDACTED],

On June 6, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 21, 2015 eligibility determination notice and January 29, 2016 eligibility determination 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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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 no longer eligible for financial assistance with paying for your health insurance coverage, effective January 1, 2016?

Did NYSOH properly determined that your eligibility for Essential Plan coverage began March 1, 2016?

Procedural History

On November 4, 2013, NYSOH issued a letter welcoming you to NYSOH and confirming that you had elected to receive all information from NYSOH electronically.

On January 15, 2015, NYSOH issued an eligibility determination stating that you were newly eligible to receive up to \$242.00 per month in advance payments of the premium tax credit (APTC), and eligible to receive cost-sharing reductions, effective February 1, 2015.

Also on January 15, 2015, NYSOH issued an enrollment confirmation notice, confirming your enrollment in an individual silver-level qualified health plan (QHP), with coverage starting as early as February 1, 2015, if you paid your premium.

On October 25, 2015, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. 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 QHP at full cost, effective January 1, 2016. The notice also stated that you 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 22, 2015, NYSOH issued an enrollment confirmation notice, confirming your enrollment at full cost in the same silver-level QHP you were enrolled in during 2015, effective January 1, 2016. The notice state that your monthly premium was \$378.88 per month.

On January 28, 2016, NYSOH received your updated application for health insurance.

Also on January 28, 2016, you spoke to NYSOH's Account Review Unit and appealed the December 21, 2015 eligibility determination, insofar as it stated that you were not eligible for financial assistance because you had failed to renew your application within the required timeframe.

On January 29, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan, with no monthly premium, effective March 1, 2016.

Also on January 29, 2016, NYSOH issued a notice of enrollment, based on your plan selection on January 28, 2016, stating that you were enrolled in an Essential Plan, and that your plan would start March 1, 2016; you were no longer eligible to remain enroll in your QHP after February 29, 2016.

On June 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 support the following findings of fact:

- 1) The record reflects, that you elected to receive all of your notices from NYSOH electronically.
- 2) You testified that you did not receive any electronic alerts regarding any renewal notice in your NYSOH, sent about the need to update your application in order to renew your eligibility.
- 3) You testified that you know you paid your full QHP premium for whatever months you did not have financial assistance, which the record reflects were January and February 2016.
- 4) You testified that you believed you used your coverage in January 2016.
- 5) You testified that you did not know that you needed to update your account until sometime in January 2016, when you called NYSOH and found out that you had allegedly been sent a renewal notice that you had not responded to.
- 6) On January 28, 2016, NYSOH received your updated application for health insurance.
- 7) You testified that you are seeking to have the APTC amount that you were receiving in 2015 applied to your premiums for January and February 2016 so that you can be reimbursed for the premium payments that you made.

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 projected 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 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)).

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)).

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); 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 first issue under review is whether NYSOH properly determined that you were no longer eligible for financial assistance with paying for the cost of your

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health insurance, and that you were eligible to purchase a full cost QHP, effective January 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 projected 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 25, 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 was terminated effective December 31, 2015.

However, the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the renewal notice, which directed you to update the information in your NYSOH account. There is no evidence in your account documenting that any email alert was sent to you regarding the renewal notice or the need to renew your application, or that any notice was sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account. The December 21, 2015 eligibility determination stating that you were eligible to purchase a QHP only full cost, and not eligible for financial assistance because you failed to renew your application within the required timeframe, is therefore RESCINDED.

The second issue under review is whether NYSOH properly determined that your eligibility for the Essential Plan began as of March 1, 2016.

You first renewed your eligibility for financial assistance through NYSOH for 2016 on January 28, 2016. We can only 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.

Had you been timely informed of the need to update your account and timely submitted the update, your eligibility for the Essential Plan would have been effective on January 1, 2016.

Therefore, the January 29, 2016 notice of eligibility redetermination is MODIFIED to state that you are eligible to enroll in Essential Plan coverage, effective January 1, 2016.

However, you testified that you may have used your QHP in January and February of 2016, and those health care providers may not accept the Essential Plan. If you were to retroactively enroll in the Essential Plan and cancel your QHP, your former carrier might have to deduct your paid medical bills from any refund of premiums you might receive. If the paid bills exceed the premiums you have already paid and your health care providers do not accept the Essential Plan, you might have to pay those bills yourself.

Therefore, your case is RETURNED to NYSOH to assist you in determining whether it is financially beneficial for you to have your Essential Plan coverage backdated, and, if so, to facilitate your enrollment in Essential Plan coverage with a start date as early as January 1, 2016.

Decision

The December 21, 2015 eligibility determination notice is RESCINDED.

The January 29, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 21, 2016, you are eligible to enroll in Essential Plan coverage.

Your case is RETURNED to NYSOH to assist you in determining whether it is financially beneficial for you to have your Essential Plan enrollment backdated and, if so, to facilitate your enrollment in Essential Plan coverage as early as January 1, 2016.

Effective Date of this Decision: August 08, 2016

How this Decision Affects Your Eligibility

You should have been eligible for enrollment in an Essential Plan effective January 1, 2016.

You were not eligible for APTC in January and February 2016, therefore, NYSOH cannot grant you APTC for those months.

Since you paid your QHP premiums and used your coverage in January 2016, your case is being sent back to NYSOH to assist you in determining whether it is to your financial benefit to have your Essential Plan enrollment backdated.

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Should you determine that you wish to backdate your enrollment, NYSOH will facilitate your enrollment in your Essential Plan coverage with a start date as early as January 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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

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Summary

The December 21, 2015 eligibility determination notice is RESCINDED.

The January 29, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 21, 2016, you are eligible to enroll in Essential Plan coverage.

Your case is RETURNED to NYSOH to assist you in determining whether it is financially beneficial for you to have your Essential Plan enrollment backdated and, if so, to facilitate your enrollment in Essential Plan coverage as early as January 1, 2016.

You should have been eligible for enrollment in an Essential Plan effective January 1, 2016.

You were not eligible for APTC in January and February 2016, therefore, NYSOH cannot grant you APTC for those months.

Since you paid your QHP premiums and used your coverage in January 2016, your case is being sent back to NYSOH to assist you in determining whether it is to your financial benefit to have your Essential Plan enrollment backdated.

Should you determine that you wish to backdate your enrollment, NYSOH will facilitate your enrollment in your Essential Plan coverage with a start date as early as January 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:

