



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

Notice of Decision

Decision Date: August 09, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006948

[REDACTED]

Dear [REDACTED],

On July 14, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 30, 2016 disenrollment notice and February 9, 2016 notice of enrollment.

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 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.

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Issues

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

Did NY State of Health (NYSOH) properly disenroll your spouse from her medical plan and standalone dental plan, effective February 29, 2016?

Did NYSOH properly determine that your spouse's coverage under Empire HMO 1000 X Gold NS INN Pediatric Dental Dep 25 began no earlier than March 1, 2016, and that your spouse had not been reenrolled in her standalone dental plan as of February 1, 2016?

Procedural History

On October 22, 2015, NYSOH issued a notice that it was time to renew your spouse's health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, your spouse qualified for an advance premium tax credit (APTC) of up to \$71.19 per month, effective January 1, 2016. The notice also stated that your spouse had been reenrolled in both Empire HMO 2250 X Silver NS INN Pediatric Dental Dep 25 (Empire Silver) as her medical plan, and DeltaCare USA Basic Plan for Families NS INN Family Dental Dep 25 (Deltacare) as her standalone dental plan. Her coverage under these plans would take effect on January 1, 2016.

On November 24, 2015, NYSOH issued a cancellation notice stating that your request to cancel your spouse's coverage under Deltacare had been received. The notice stated that your coverage with Deltacare would end effective November 23, 2015.

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Also on November 24, 2015, NYSOH issued a notice of enrollment confirming that your spouse's coverage under Empire Silver begin as of January 1, 2016. The notice also confirmed your selection of Delta Dental PPO Basic Plan for Families NS OON Family Dental Dep 25 (Delta Dental), as your spouse's new standalone dental plan, on November 23, 2015. Your coverage under each of these plans was effective January 1, 2016.

On January 29, 2016, NYSOH received a revised application.

On January 30, 2016, NYSOH issued an eligibility determination notice stating that your spouse was now eligible to enroll in the Essential Plan, effective March 1, 2016. The notice also stated that your spouse was found no longer eligible for an APTC as of February 29, 2016.

Also on January 30, 2016, NYSOH issued a disenrollment notice stating that your spouse's coverage under Empire Silver and Delta Dental would end effective February 29, 2016. This was because your spouse was no longer eligible to remain enrolled in her current insurance.

Finally on January 30, 2016, NYSOH issued a notice of enrollment confirming that your spouse had been enrolled in an Essential Plan with a monthly premium of \$20.00, with such coverage beginning March 1, 2016.

On February 8, 2016, NYSOH received a revised application, in which you attested to an increased expected annual household income.

On February 9, 2016, NYSOH issued an eligibility redetermination notice stating that your spouse was newly eligible to receive an APTC of up to \$167.00 per month and, if she selected a silver-level plan, eligible for cost-sharing reductions (CSR). This eligibility determination was effective March 1, 2016.

Also on February 9, 2016, NYSOH issued a cancellation notice confirming that your spouse's Essential Plan coverage ended effective March 1, 2016. This was because your spouse was no longer eligible to enroll in this health plan.

Also on February 9, 2016, NYSOH issued a notice of enrollment confirming that you had selected Empire HMO 1000 X Gold NS INN Pediatric Dental Dep 25 (Empire Gold) as your spouse's medical plan as of February 8, 2016. The notice also stated that your spouse's coverage under Fidelis Gold was effective March 1, 2016. There was no reference to an enrollment by your spouse in a standalone dental plan at that time.

Finally on February 9, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the February 9, 2016 notice of enrollment insofar as your spouse's Empire Gold plan coverage would begin as of March 1, 2016, rather

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than February 1, 2016, and that your spouse had not been reenrolled in her Delta Dental plan with such coverage also beginning as of February 1, 2016.

On July 14, 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) On October 22, 2015, your spouse was reenrolled in Empire Silver and Deltacare as of January 1, 2016.
- 2) Your spouse's standalone dental coverage was switched from Deltacare to Delta Dental on November 23, 2015. Coverage under Delta Dental began effective January 1, 2016.
- 3) A revised application was received by NYSOH on January 29, 2016.
- 4) You testified, and the record reflects, that you would be filing your 2016 tax return as married filing jointly, and claiming no dependents on that return.
- 5) The application that was submitted on January 29, 2016, which requested financial assistance, listed annual household income of \$28,500.00, consisting solely of \$2,375.00 per month in income you received from your employment with [REDACTED]. You testified that this amount was correct when you submitted your application.
- 6) Your application states that you will not be taking any deductions on your 2016 tax return.
- 7) You live in Queens County, New York.
- 8) Based on the information contained in the January 29, 2016 application, your spouse was found eligible for coverage through the Essential Plan, effective March 1, 2016.
- 9) Your spouse's coverage under Empire Silver and Delta Dental was terminated effective February 29, 2016. Also, your spouse was enrolled in an Essential plan with coverage to begin March 1, 2016.
- 10) You further revised your application on February 8, 2016, which reflected an increase in annual household income from \$28,500.00 to \$34,500.00.

- 11) Your spouse was found eligible for up to \$167.00 per month in APTC, and ineligible for the Essential Plan, effective March 1, 2016.
- 12) Your spouse was disenrolled from the Essential Plan, effective March 1, 2016. Also, on February 8, 2016, you selected for your spouse to enroll in Empire Gold. This QHP coverage was effective as March 1, 2016.
- 13) You testified that you were not aware that your spouse had experienced any break in her QHP coverage as a result of having been found eligible for the Essential Plan, and that your spouse had been disenrolled from Delta Dental as her standalone dental plan.
- 14) You testified that you contacted NYSOH prior to January 15, 2016 to switch your spouse's medical coverage from Empire Silver to Empire Gold, and that you were seeking for her coverage under the Empire Gold plan to begin effective February 1, 2016.
- 15) You testified that you were also seeking for your spouse's coverage under her standalone dental plan to be reinstated as of February 1, 2016 since you were unaware that you experienced a break in coverage.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

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 in effect on 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 \$15,930.00 for a two-person household (80 Federal Register 3236, 3237).

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

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

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)).

Advance Payments of the Premium Tax Credit:

Advance payments of the premium tax credit (APTC) are available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the applicable FPL, (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR § 155.300(a), 45 CFR § 155.305(f)(1)(i)). On the date of your application, that was the 2015 FPL, which is \$15,930.00 for a two-person household (80 Federal Register 3236, 3237).

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of advance premium tax credit (APTC) for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit

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year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health 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)). 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 disenrolled your spouse her medical plan and standalone dental plan effective February 29, 2016.

Your spouse enrolled in the Empire Silver, as her medical plan, and Delta Dental, as her standalone dental plan, with coverage effective as of January 1, 2016.

The revised application that was submitted on January 22, 2016 listed an annual household income of \$28,500.00, which was based upon your spouse's monthly income of \$2,375.00. The eligibility determination relied upon that information.

Your spouse is in a two-person household. You expect to file your 2016 income taxes as married filing jointly and will claim no dependents on that tax return.

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 \$15,930.00 for a two-person household. Since an annual household income of \$28,500.00 is 178.91% of the 2015 FPL, NYSOH properly found your spouse 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 to subsidize the purchase of a QHP because they are considered eligible for minimum essential coverage through NYSOH.

Since your spouse was properly found eligible for the Essential Plan, and ineligible for APTC, as of January 29, 2016 with coverage to begin effective March 1, 2016, she was properly disenrolled from the Empire Silver and Delta

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Dental plans effective February 1, 2016. Accordingly, the January 30, 2016 disenrollment notice is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your spouse's coverage under Empire HMO 1000 X Gold NS INN Pediatric Dental Dep 25 began no earlier than March 1, 2016, and that your spouse had not been reenrolled in her standalone dental plan as of February 1, 2016.

Your spouse was subsequently found eligible on February 8, 2016 to enroll in a QHP, receive an APTC of up to \$167.00 and, if you selected a silver-level plan, eligible for CSR, effective March 1, 2016.

The record reflects that on February 8, 2016, you updated the information in your NYSOH account and submitted a request to reenroll your spouse in a QHP. On February 9, 2016 NYSOH issued an enrollment confirmation notice stating that your spouse enrollment in Empire Gold was effective March 1, 2016, applying your APTC as of that date. There was no record of your spouse having elected to be reenrolled in the Delta Dental as your standalone dental plan.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month. Additionally, the date on which a QHP can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the first day to and including fifteenth day of a month goes into effect on the first day of the following month.

Therefore, NYSOH's February 9, 2016 notice of enrollment is AFFIRMED because it properly began your spouse's enrollment in Empire Gold as of March 1, 2016, and did not reenroll you in Delta Dental as your spouse's standalone dental plan.

Decision

The January 30, 2016 disenrollment notice is AFFIRMED.

The February 9, 2016 notice of enrollment is AFFIRMED.

Effective Date of this Decision: August 09, 2016

How this Decision Affects Your Eligibility

Your spouse's coverage with Empire Silver and Delta Dental was terminated as of February 29, 2016.

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Your spouse's coverage with Empire Gold began effective March 1, 2016.

Your spouse was not reenrolled in a standalone dental plan, effective March 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):

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- By calling the Customer Service Center at 1-855-355-5777
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Summary

The January 30, 2016 disenrollment notice is AFFIRMED.

The February 9, 2016 notice of enrollment is AFFIRMED.

Your spouse coverage with Empire Silver and Delta Dental was terminated as of February 29, 2016.

Your spouse's coverage with Empire Gold began effective March 1, 2016.

Your spouse was not reenrolled in a standalone dental plan, effective March 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

