



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

Notice of Decision

Decision Date: August 18, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007024

[REDACTED]

Dear [REDACTED]

On August 12, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 12, 2016 enrollment and disenrollment 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 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: August 18, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007024

[REDACTED]

Issue

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

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

Did NYSOH properly determine that your enrollment in a qualified health plan at full cost was terminated effective February 29, 2016?

Procedural History

On December 2, 2014, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$328.00 per month in advance payments of the premium tax credit (APTC) and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR), effective January 1, 2015.

On December 14, 2014, NYSOH issued a notice of enrollment in a qualified health plan (QHP) with a monthly premium responsibility of \$72.37, after your APTC of \$328.00 was applied, effective January 1, 2015.

On October 22, 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.

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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 not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance; however, you were eligible to enroll in a QHP at full cost. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame. Your eligibility for financial assistance ended December 31, 2015.

On December 24, 2015, NYSOH issued a notice of enrollment confirming your re-enrollment in a QHP with a monthly premium responsibility of \$440.05, effective January 1, 2016. If you did not make the premium payment, you could lose your health insurance.

On February 11, 2016, NYSOH received your updated application for health insurance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that you were eligible to enroll in the Essential Plan with a premium of \$0.00 per month, effective March 1, 2016.

On February 11, 2016, you spoke to NYSOH's Account Review Unit and appealed the February 11, 2016 preliminary eligibility determination insofar as your eligibility to enroll in the Essential Plan began on March 1, 2016, and not January 1, 2016, and that your QHP coverage would end effective February 29, 2016, rather than December 31, 2015.

On February 12, 2016, NYSOH issued a notice of eligibility redetermination stating that you were eligible to enroll in the Essential Plan. This eligibility was effective March 1, 2016. The notice also stated that you were no longer qualified to enroll in a QHP as of February 29, 2016.

Also on February 12, 2016, NYSOH issued a disenrollment notice stating that your coverage under your QHP would end effective February 29, 2016.

Finally on February 12, 2016, NYSOH issued a notice of enrollment confirming your enrollment in an Essential Plan with a monthly premium responsibility of \$30.66, effective March 1, 2016.

On August 12, 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) Your NYSOH account indicates that you elected to receive notices from NYSOH by regular mail.
- 2) You testified that you did not receive any notices from NYSOH telling you that you needed to update the information in your NYSOH account to ensure that your coverage would not be interrupted and that your financial assistance would continue.
- 3) You testified that you moved your residence from [REDACTED] to [REDACTED] during August of 2015, and that you called NYSOH during September 2015 to update your account to reflect your change in address.
- 4) There is no record in your account that would show any attempt was made in September 2015 to update your address.
- 5) The record reflects that your mailing and residence addressed were not altered in your NYSOH account until your revised application was submitted on February 11, 2016.
- 6) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 7) You testified that you did not know you needed to renew your application until you received a large bill for your QHP coverage beginning January 1, 2016.
- 8) The record reflects that you updated the information in your NYSOH account on February 11, 2016, and on that day enrolled in the Essential Plan.
- 9) You testified that you were not only seeking for your Essential Plan to begin effective January 1, 2016, but also to have your QHP terminated effective December 31, 2015.
- 10) You testified that you did not make any payment to your insurance carrier for coverage during the months of January and February 2016 since the premium amount due were too high and in dispute.

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 information and 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)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

Redetermination During a Benefit Year

When an eligibility redetermination results in a change in the amount of APTC for a part of the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made (or not 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 year that correspond to the tax filer's total projected premium tax credit for the overall benefit year (45 CFR § 155.330(g)).

Any change resulting from redeterminations during a benefit year should be made effective the first day of the month following the date of the notice of redetermination, except that redeterminations resulting from changes made after a date specified by the state, which can be no earlier than the 15th of the month, may not be made effective until the first day of the month after the month following the date of the notice of redetermination. (45 CFR § 155.330(f)(1) and (2)). New York has specified that changes made after the 15th of a given month will take effect the month after the following month.

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)).

QHP Termination

NYSOH must permit an enrollee to terminate his or her coverage with a qualified health plan, including when an enrollee obtains minimum essential coverage, with appropriate notice to NYSOH or qualified health plan (45 CFR § 155.430(b)(1), (d)).

For enrollee-initiated terminations, the last day of coverage is either:

- 1) The termination date specified by the enrollee, if the enrollee provides reasonable notice (at least 14 days before the requested termination date);
- 2) Fourteen days after the enrollee requests the termination, if they do not provide reasonable notice; or
- 3) On a date on or after the date the enrollee requests the termination, if the enrollee's qualified health plan issuer and the enrollee agree to such a date

(45 CFR § 155.430(d)(2)(i)-(iii)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your enrollment in an Essential Plan was effective March 1, 2016.

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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 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 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 eligibility for financial assistance was terminated effective December 31, 2015.

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 any of the notices that were sent to your mailing address were returned as undeliverable.

You also testified that you believe that you contacted NYSOH to report your change in address during September 2015, which may have led to you not having received notices, including the renewal notice. However, the credible evidence of record reflects that your change of address was first reported when you revised your application on February 11, 2016.

Therefore, the record reflects that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated in order to ensure your eligibility for financial assistance would continue.

The record shows that on February 11, 2016 you updated the information in your NYSOH account. As a result of that update to your account, you were found eligible for the Essential Plan as of February 11, 2016, and enrolled in a plan that day.

The date on which enrollment in an Essential Plan 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 the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

On February 11, 2016, you selected an Essential Plan, so your enrollment properly took effect on the first day of the first month following February 2016; that is, on March 1, 2016.

Therefore, the February 12, 2016 notice of enrollment stating that your enrollment in the Essential Plan was effective March 1, 2016, is correct and must be AFFIRMED.

The second issue is whether NYSOH properly determined that your enrollment in your QHP was terminated effective February 29, 2016.

On December 24, 2015, NYSOH issued a notice of enrollment, stating that as of January 1, 2016, you were enrolled in the QHP. The notice further stated that if you had a premium responsibility, you must pay the monthly premium to start and keep your coverage. If you did not pay your premium, you might not have health coverage.

You testified that you did not pay any premium amount to your insurance carrier for coverage during the months of January 2016 and February 2016. Because you did not pay your first premium, your QHP coverage for the new coverage year never went into effect.

Therefore, the disenrollment notice issued on February 12, 2016 is MODIFIED to state that you had no QHP effective December 31, 2016.

Decision

The February 12, 2016 notice of enrollment is AFFIRMED.

The February 12, 2016 disenrollment notice is MODIFIED to state that you had no QHP effective December 31, 2016.

Effective Date of this Decision: August 18, 2016

How this Decision Affects Your Eligibility

Your enrollment in the Essential Plan properly began as of March 1, 2016.

You were disenrolled from your QHP effective December 31, 2015, rather than February 29, 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

Summary

The February 12, 2016 notice of enrollment is **AFFIRMED**.

The February 12, 2016 disenrollment notice is **MODIFIED** to state that you had no QHP effective December 31, 2016.

Your enrollment in the Essential Plan properly began as of March 1, 2016.

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You were disenrolled from your QHP effective December 31, 2015, rather than February 29, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

