



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

Notice of Decision

Decision Date: August 24, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007068

[REDACTED]

Dear [REDACTED],

On July 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 10, 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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(b).

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

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007068



Issues

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

Did New York State of Health (NYSOH) properly determine that your plan enrollment start date in the Essential Plan (Healthfirst) should be March 1, 2016?

Did NYSOH properly disenroll you from your qualified health plan (Healthfirst), effective February 29, 2016?

Procedural History

On October 24, 2015, 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 are currently receiving.

No updates were made to your account by December 15, 2015.

On December 21, 2015 NYSOH issued an eligibility determination that you were newly eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2016.

On February 9, 2016 your NYSOH account was updated.

On February 10, 2016, NYSOH issued three notices:

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- (1) An eligibility determination notice stating that you are eligible to enroll in the Essential Plan, effective as of March 1, 2016. Furthermore, you no longer qualify for a qualified health plan as of February 29, 2016;
- (2) An enrollment notice confirming that as of February 9, 2016 you were enrolled in Essential Plan 1 Plus Vision and Dental (Healthfirst) with a plan enrollment start date of March 1, 2016;
- (3) A disenrollment notice that your Healthfirst Bronze Leaf Premier, Bronze, NS, INN, Family Dental, Dep25, Family Vision (Healthfirst) will end effective February 29, 2016.

On February 12, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as the start date of the Essential Plan and disenrollment date of your qualified health plan.

On July 22, 2016, you had a scheduled telephone hearing with a Hearing Officer from NYSOH Appeals Unit. Testimony was taken during the hearing and record was developed. The record is now complete and closed.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) On October 24, 2015, NYSOH issued a notice that it was time to renew your health insurance for 2016. That notice stated that you needed to update your account by December 15, 2015 or you might lose the financial assistance that is currently be received ([REDACTED])
- 2) You testified and your NYSOH account indicates that you receive notices from the NYSOH via electronically.
- 3) You testified that you did not receive notice from NYSOH requesting that you update the information in your NYSOH account to ensure that your financial assistance would continue in 2016.
- 4) You testified that the email address listed in your NYSOH account is your current email address.
- 5) You testified that you received health insurance premium invoices from Healthfirst, for January and February 2016, requesting that you pay a higher premium amount.
- 6) According to your NYSOH account, the information in your Marketplace Account was updated on February 9, 2016.

7) On February 10, 2016, NYSOH issued an enrollment notice confirming that as of February 9, 2016 you were enrolled in Essential Plan 1 Plus Vision and Dental (Healthfirst) with a plan enrollment start date of March 1, 2016

([REDACTED])

8) On February 10, 2016, NYSOH issued a disenrollment notice that your Healthfirst Bronze Leaf Premier, Bronze, NS, INN, Family Dental, Dep25, Family Vision (Healthfirst) will end effective February 29, 2016

([REDACTED]).

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 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>).

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)).

However, the enrollment period was further extended to December 19, 2015 for individuals to have coverage effective January 1, 2016 (Press Release: NY State of Health Extends Enrollment Deadline for January 1

Coverage: https://www.health.ny.gov/press/releases/2015/2015-12-15_enrollment_deadline_extension.htm

Electronic Notices

(a) Effective no earlier than October 1, 2013 and no later than January 1, 2015, the agency 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.

(b) If the individual elects to receive communications from the agency electronically, the agency must—

(1) Ensure that the individual's election to receive notices electronically is confirmed by regular mail.

(2) Ensure that the individual is informed of his or her right to change such election to receive notices through regular mail.

(3) Post notices to the individual's electronic account within 1 business day of notice generation.

(4) Send an email or other electronic communication alerting the individual that a notice has been posted to his or her account. The agency may not include confidential information in the email or electronic alert.

(5) Send a notice by regular mail within three business days of the date of a failed electronic communication if an electronic communication is undeliverable

(42 CFR § 435.918, (45 CFR § 155.230(d)).

Essential Plan Eligibility:

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).

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), N.Y. Soc. Serv. Law § 369-gg(3), 42 USC § 18051).

An individual who is eligible to enroll in an Essential Health Plan is prohibited from enrolling in a qualified health plan through NYSOH (42 CFR § 600.300(a)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your plan enrollment start date in your Essential Health Plan should be March 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 24, 2015, NYSOH issued an annual renewal notice in your account. That notice stated that based on information from federal and state sources, the Marketplace 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.

Your NYSOH account was not updated by December 15, 2015 and your eligibility for financial assistance was terminated December 31, 2015.

However, you testified and the record reflects that you elected to receive alerts regarding notices from the NYSOH electronically. You credibly testified that you did not receive an electronic alert that a notice had been uploaded to your account directing you to update your NYSOH account. There is no evidence in your account documenting that any email alert was sent to you regarding any notices uploaded to your account.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account.

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You first renewed your eligibility for financial assistance and enrolled in a plan through the NYSOH for 2016 on February 9, 2016, and therefore 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.

Therefore, the February 10, 2016, notice of enrollment is MODIFIED to state that your enrollment in Essential Plan 1 Plus Vision and Dental (Healthfirst) will have a plan enrollment start date of January 1, 2016.

The second issue is whether the NYSOH properly disenrolled you from your qualified health plan (Healthfirst), effective February 29, 2016.

An individual who is eligible to enroll in an Essential Health Plan is prohibited from enrolling in a qualified health plan through NYSOH. Since you were eligible to be enrolled in an Essential Plan on January 1, 2016, you were no longer eligible to be enrolled in a qualified effective December 31, 2015.

The February 10, 2016, disenrollment notice is MODIFIED to state that your qualified health plan (Healthfirst) ended December 31, 2015.

Decision

The February 10, 2016, enrollment notice is MODIFIED to state that your Essential Plan (Healthfirst) plan enrollment is effective January 1, 2016.

The February 10, 2016, disenrollment notice is MODIFIED to state that your qualified health plan (Healthfirst) coverage ended effective December 31, 2015.

Your case is RETURNED to NYSOH to effectuate your coverage.

Effective Date of this Decision: August 24, 2016

How this Decision Affects Your Eligibility

The effective date of your Essential Plan (Healthfirst) is January 1, 2016.

You were disenrolled from your qualified health plan (Healthfirst) effective December 31, 2015.

You may be responsible for additional health insurance premiums in order to effectuate this coverage.

If You Disagree with this Decision (Appeal Rights)

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).

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 after the date 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 date 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 10, 2016, enrollment notice is MODIFIED to state that your Essential Plan (Healthfirst) plan enrollment is effective January 1, 2016.

The February 10, 2016, disenrollment notice is MODIFIED to state that your qualified health plan (Healthfirst) coverage ended effective December 31, 2015.

Your case is RETURNED to NYSOH to effectuate your coverage.

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The effective date of your Essential Plan (Healthfirst) is January 1, 2016.

You were disenrolled from your qualified health plan (Healthfirst) effective December 31, 2015.

You may be responsible for additional health insurance premiums in order to effectuate this coverage.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

