



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

Notice of Decision

Decision Date: August 30, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007149

[REDACTED]

Dear [REDACTED],

On July 13, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's failure to provide a timely notice of eligibility determination and NYSOH's January 28, 2016, enrollment 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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation (CFR) 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).

This page intentionally left blank.



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

Decision

Decision Date: August 30, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007149

[REDACTED]

Issues

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

Did New York State of Health fail to provide a timely notice of eligibility determination?

Did New York State of Health properly determine that your qualified health plan should have a plan enrollment start date of March 1, 2016?

Procedural History

On October 22, 2015, New York State of Health (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.

On December 17, 2015, you contacted New York State of Health (NYSOH) to re-apply for health insurance coverage.

Also on December 17, 2015, you uploaded documentation to your NYSOH account ([REDACTED]).

On December 18, 2015, NYSOH issued a notice that your December 17, 2015, had been reviewed, but more information was needed to make a determination. The notice directed you to submit income documentation to NYSOH by January

2, 2016 to confirm that the information you provided in your application was accurate.

On December 28, 2015, NYSOH issued a notice that additional information was required to confirm your eligibility for health insurance through NYSOH. The notice stated that the documentation submitted to resolve the inconsistency appeared to be insufficient to resolve the request. Furthermore, additional information regarding your income was required to make an eligibility determination.

On January 11, 2016, you uploaded documentation to your NYSOH account

On January 19, 2016, you updated your NYSOH account.

On January 20, 2016, NYSOH issued an eligibility determination notice that, based on your January 19, 2016 application, you were conditionally eligible to receive up to \$133.00 of advance premium tax credits, effective March 1, 2016. The notice directed you to confirm your eligibility by providing income documentation before April 18, 2016.

Also on January 20, 2016, NYSOH issued a notice that additional information was required to confirm your eligibility for health insurance through NYSOH. The notice stated that the documentation submitted to resolve the inconsistency appeared to be insufficient to resolve the request. Furthermore, additional information regarding your income was required to make an eligibility determination.

On January 27, 2016, you uploaded documentation to your NYSOH account

On January 28, 2016, NYSOH issued an eligibility determination notice stating that you were conditionally eligible to receive up to \$133.00 of advance premium tax credit per month, effective March 1, 2016. The notice directed you to confirm your eligibility by providing income documentation before April 26, 2016.

Also on January 28, 2016, NYSOH issued an enrollment notice confirming that as of January 27, 2016, you were enrolled in Fidelis Care Bronze ST INN Pediatric Dental Dep25 (Fidelis Care) with a plan enrollment start date of March 1, 2016.

On February 5, 2016, NYSOH issued an eligibility determination notice that you were eligible to receive up to \$133.00 of advance premium tax credit, effective as of March 1, 2016.

On February 17, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as NYSOH's failure to provide a timely notice of eligibility determination.

On July 13, 2016, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. Testimony was taken during the hearing, and the record was left open to allow the Hearing Officer to request the recordings of your conversations with NYSOH's customer service.

The Hearing Officer requested and received the recording of your December 17, 2015, conversation with NYSOH customer service. That recording has been incorporated into the record as "Appellant Exhibit A." The record is now complete and closed.

Findings of Fact

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

- 1) According to your testimony and NYSOH account, you contacted NYSOH on December 17, 2015, to renew your health insurance coverage for 2016.
- 2) During the December 17, 2015, conversation with NYSOH's customer service you stated:
 - (a) you were self-employed;
 - (b) you were currently receiving \$6,000.00 per month;
 - (c) first that you were working through December 31, 2015 and may not have any income in 2016, and then that your income may be \$0.00 by January 2016 or your income may be the same as 2015;
 - (d) you were expecting to claim a business expense deduction of \$40,000.00 on your 2016 federal income tax return

(Appellant Exhibit A).
- 3) During the December 17, 2015, conversation with NYSOH's customer service the NYSOH representative stated:
 - (a) the information provided does not match the data sources and NYSOH is unable to make an eligibility determination until additional documentation was provided;
 - (b) if you received paystubs, you may document your last thirty days of income with paystubs

(Appellant Exhibit A).

- 4) According to your December 17, 2015 NYSOH application, the NYSOH representative entered an income of \$6,000.00 from January 1, 2016 through January 31, 2016, and a business expense deduction of \$40,000.00 for 2016.
- 5) On December 17, 2015, you uploaded two checks to your NYSOH account [REDACTED]. You submitted:
 - (a) a check from [REDACTED], dated November 1, 2015, with an original amount of \$6,000.00 and a check amount of \$3,000.00 [REDACTED];
 - (b) a check from [REDACTED], dated December 1, 2015, with an original amount of \$6,000.00 and a check amount of \$3,000.00 [REDACTED].
- 6) On December 18, 2015, NYSOH issued a notice that your application on December 17, 2015 had been reviewed. However, more information was needed to make a determination. The notice provided a chart of acceptable documentation to confirm eligibility. The chart listed records of earnings and expenses, or business pay rolls and records for the last three months as acceptable documentation for self-employment income [REDACTED].
- 7) According to your NYSOH account, the documentation submitted on December 17, 2015, was determined invalid on December 28, 2015.
- 8) On December 28, 2015, NYSOH issued a notice that additional information was required to confirm your eligibility for health insurance through NYSOH because the documentation submitted to resolve the inconsistency appeared to be insufficient to resolve the request. The notice provided a chart of acceptable documentation to confirm eligibility. The chart listed acceptable documentation for self-employment income, for a period of at least three months, as: business records and receipts (e.g. business bank account records, invoices and checks); records of earnings and expenses (e.g. balance sheets from accounting software); or most recent signed and filed taxes if representative of expected income [REDACTED].
- 9) On January 11, 2016, you uploaded a statement to your NYSOH account [REDACTED]. You acknowledged that you received a letter in the mail requesting more income documentation, so you provided two additional paystubs.
- 10) On January 11, 2016, you uploaded two checks to your NYSOH account [REDACTED]. You submitted:

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).

- (a) a check from [REDACTED], dated November 1, 2015, with an original amount of \$6,000.00 and a check amount of \$3,000.00 [REDACTED];
- (b) a check from [REDACTED] dated January 4, 2016, with an original amount of \$6,000.00 and a check amount of \$3,000.00 [REDACTED].

11) According to your NYSOH account, on January 19, 2016, you accessed your NYSOH account and updated your application to reflect that you earn \$6,000.00 per month.

12) On January 20, 2016, NYSOH issued an eligibility determination that, based on your January 19, 2016 application, you were conditionally eligible to receive up to \$133.00 of advance premium tax credits, effective March 1, 2016. The notice directed you to confirm your eligibility by providing income documentation before April 18, 2016.

13) According to your NYSOH account, the documentation submitted on January 11, 2016, was determined invalid on January 19, 2016.

14) On January 20, 2016, NYSOH issued a notice that additional information was required to confirm your eligibility for health insurance through NYSOH because the documentation submitted to resolve the inconsistency appeared to be insufficient to resolve the request. The notice provided a chart of acceptable documentation to confirm eligibility. The chart listed acceptable documentation for self-employment income, for a period of at least three months, as: business records and receipts (e.g. business bank account records, invoices and checks); records of earnings and expenses (e.g. balance sheets from accounting software); or most recent signed and filed taxes if representative of expected income [REDACTED].

15) You testified that you received the December 28, 2015 and January 20, 2016 NYSOH notices stating that the documentation submitted was insufficient to resolve the NYSOH's request for additional documentation.

16) On January 27, 2016, you uploaded:

- (a) A statement that you spoke with a NYSOH representative on January 27, 2016, who requested that you upload additional documentation, and enrolled you in a Fidelis Care health plan with an effective date of March 1, 2016 [REDACTED];
- (b) 2014 Form 1040, U.S. Individual Income Tax Return [REDACTED];

- (c) 2014 Schedule C ([REDACTED]);
[REDACTED];
(d) 2014 Schedule SE ([REDACTED]).

- 17) On January 28, 2016, NYSOH issued an enrollment notice confirming that on January 27, 2016, you enrolled in Fidelis Care Bronze ST INN Pediatric Dental Dep25 (Fidelis Care) with a plan enrollment start date of March 1, 2016 ([REDACTED]).
- 18) You testified that you are seeking to have your Fidelis Care plan enrollment start date to be February 1, 2016, not March 1, 2016.
- 19) You testified that you contacted Fidelis Care on February 17, 2016, and was told that they were willing to backdate your coverage to February 1, 2016.

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

Applicable Law and Regulations

Timely Eligibility Determination

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 FR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)).

If the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

NYSOH must not proceed with the applicant's eligibility determination, or provide advance payments of the premium tax credit or cost-sharing reductions, unless the applicant provides sufficient information for NYSOH to make an eligibility determination (45 CFR § 155.310(k)(3)).

QHP Effective Date

For the benefit year beginning on or after January 1, 2016, NYSOH must ensure that coverage is effective March 1, 2016, for QHP selections received by NYSOH from January 16, 2016 through January 31, 2016 (45 CFR § 155.410(f)(2)(iii)).

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).

Legal Analysis

The first issue under appeal is whether NYSOH made its eligibility determination in a timely manner.

NYSOH must determine an applicant's eligibility promptly and without undue delay. NYSOH must provide a timely written notice to an applicant of any eligibility determination made. The applicant must be notified if the application does not contain sufficient information to permit NYSOH to conduct an eligibility determination for financial assistance or enrollment in a qualified health plan through NYSOH.

On December 17, 2015, you contacted NYSOH to renew your health insurance coverage. During the conversation with a NYSOH representative, you attested that: you were self-employed; were currently receiving \$6,000.00 per month; that you may not receive any income in 2016 or you may continue to receive \$6,000.00 per month, and you were expecting to claim a business expense deduction of \$40,000.00 on your 2016 federal income tax return.

Based on your incomplete attestations, the NYSOH representative entered an income of \$6,000.00 from January 1, 2016 through January 31, 2016, and a business expense deduction of \$40,000.00. The representative made you aware that your income attestation did not match NYSOH's data sources and additional documentation was necessary for an eligibility determination. The representative improperly informed you that if you received pay stubs, you may document your last thirty days of income with paystubs. Based on that representation, you uploaded two checks to your NYSOH account on December 17, 2015.

However, on December 18, 2015, NYSOH issued a notice that your application on December 17, 2015 had been reviewed. The notice stated that more information was needed to make a determination. The notice provided a chart of acceptable documentation to confirm eligibility. The chart listed records of earnings and expenses, or business pay rolls and records for the last three months as acceptable documentation for self-employment income.

On December 28, 2015, NYSOH reviewed the documentation that was submitted on December 17, 2015. On the same day NYSOH issued a notice that the documentation submitted to resolve the inconsistency was insufficient to resolve the request. The notice provided a chart of acceptable documentation to confirm eligibility. The chart listed acceptable documentation for self-employment income, for a period of at least three months, as: business records and receipts (e.g. business bank account records, invoices and checks); records of earnings and expenses (e.g. balance sheets from accounting software); or most recent signed and filed taxes if representative of expected income.

On January 11, 2016, you uploaded two additional checks from [REDACTED] to your NYSOH account. On January 19, 2016, NYSOH reviewed that documentation. On January 20, 2016, NYSOH issued a notice that the documentation submitted to resolve the inconsistency was insufficient to resolve the request. The notice provided the same chart of acceptable documentation to confirm eligibility for self-employment income as the December 28, 2015 notice.

The December 18, 2015, December 28, 2015, and January 20, 2016 notices provided a list of acceptable documentation to confirm your self-employment income. The documentation uploaded to your NYSOH account on December 17, 2015 and January 11, 2016 was insufficient to confirm your self-employment income and an eligibility determination was unable to be rendered.

However, On January 19, 2016, you accessed your NYSOH account and updated your income to reflect an expected yearly income of \$32,000.00. On the following day NYSOH issued an eligibility determination that, based on your January 19, 2016 application, you were conditionally eligible to receive up to \$133.00 of advance premium tax credits, effective March 1, 2016.

Therefore, the record supports that NYSOH did not fail to issue a timely eligibility determination.

The second issue is whether NYSOH properly determined your qualified health plan enrollment start date should be March 1, 2016.

The record reflects that you enrolled in a qualified health plan on January 27, 2016.

The date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A qualified health plan that is selected from January 16, 2016 through January 31, 2016, is effective March 1, 2016.

Therefore, the January 28, 2016 enrollment notice stating that your coverage in your qualified health plan enrollment start date is March 1, 2016 is AFFIRMED.

Decision

The NYSOH did not fail to issue a timely eligibility determination.

The January 28, 2016, enrollment notice is AFFIRMED.

Effective Date of this Decision: August 30, 2016

How this Decision Affects Your 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).

Your eligibility will not change based on this decision.

Your plan enrollment start date in Fidelis Care is 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 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 NYSOH did not fail to issue a timely eligibility determination.

The January 28, 2016, enrollment notice is **AFFIRMED**.

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).

Your eligibility will not change based on this decision.

Your plan enrollment start date in Fidelis Care is March 1, 2016.

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:

