



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

## Notice of Decision

Decision Date: August 22, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007166

[REDACTED]

Dear [REDACTED],

On August 1, 2016, [REDACTED], acting as your Authorized Representative, appeared by telephone at a hearing on your appeal of NY State of Health's February 13, 2016 eligibility determination notice and February 18, 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 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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## Decision

Decision Date: August 22, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007166



## 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 April 1, 2016?

## Procedural History

On December 17, 2014, NYSOH issued a renewal and eligibility determination notice stating that you were still qualified to get health care coverage under Medicaid for the upcoming coverage year, effective February 1, 2015. The notice also confirmed that your Medicaid Managed Care (MMC) plan coverage through Hudson Health would also begin February 1, 2015.

On December 21, 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 January 15, 2016 or you might lose the financial assistance you were currently receiving.

No updates were made to your account by January 15, 2016.

On January 16, 2016, 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. You also could not enroll in a qualified health plan at full cost. This was because you had not

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responded to the renewal notice and had not completed your renewal within the required time frame. Your eligibility would end January 31, 2016.

On January 17, 2016, NYSOH issued a disenrollment notice stating that your MMC plan coverage with MVP Health Plan, Inc. (f/k/a Hudson Health Plan) would end effective January 31, 2016.

On February 2, 2016, NYSOH received your updated application for health insurance.

On February 3, 2016, NYSOH issued a notice stating that you may be eligible for health insurance through NYSOH, but more information was needed to make a determination. The notice requested that you provide income documentation by February 18, 2016 to confirm that the information you provided in your application was accurate.

Also on February 3, 2016, you provided four earning statement issued to you by your employer between January 4, 2016 and January 25, 2016.

On February 9, 2016, NYSOH received a completed Authorized Representative Designation Form in which reflected that you wanted your mother, [REDACTED], to act as your Authorized Representative for all matter related to your account, including your appeal.

On February 11, 2016, NYSOH received your updated application for health insurance.

On February 12, 2016, NYSOH issued a notice stating that you may be eligible for health insurance through NYSOH, but more information was needed to make a determination. The notice requested that you provide income documentation by February 27, 2016 to confirm that the information you provided in your application was accurate.

Also on February 12, 2016, NYSOH received your updated application for health insurance.

On February 13, 2016, NYSOH issued a notice of eligibility determination, based on your February 12, 2016 application, stating that you were eligible to enroll in the Essential Plan at monthly premium of \$20.00, effective March 1, 2016.

On February 18, 2016, NYSOH issued a notice of enrollment, based on your plan selection on February 17, 2016, stating that you were enrolled in an Essential Plan, and that your plan would start April 1, 2016. You spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential Plan insofar as it did not begin February 1, 2016.

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On August 1, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open for the sole purpose of providing you an opportunity to submit as additional evidence: (1) copies of MVP cards reflecting a coverage start date of March 1, 2016, (2) a timeline setting out chronology of events, and (3) additional letters issued by MVP not already received into the record. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On August 2, 2016, you provided the above referenced documents to the NYSOH Appeals Unit through facsimile.

Accordingly, the record was closed on August 2, 2016.

## **Findings of Fact**

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

- 1) The record reflects, that you receive all of your notices from NYSOH by electronic mail. The record also reflects that you elected to have electronic notices sent to [REDACTED],” which was your mother’s e-mail account.
- 2) Your mother testified that she did not receive any electronic alerts regarding any renewal notice in your NYSOH account telling you that you needed to update your application in order to renew your eligibility.
- 3) Your mother testified that she did not know that an update was needed for your account until prescriptions you tried to fill during February 2016 under your MMC plan were rejected, and your mother was forced to pay for the full cost of the medication.
- 4) The record reflects that on February 2, 2016, February 11, 2016, and February 12, 2016 NYSOH received your updated applications for health insurance.
- 5) The record reflects that as a result of the final application submitted on February 12, 2016, you were found eligible for the Essential Plan, effective March 1, 2016. You selected an Essential Plan for enrollment on February 17, 2016. Coverage under your Essential Plan began as of April 1, 2016.
- 6) Your mother testified that you are seeking to backdate your Essential Plan start date to February 1, 2016 in order to cover out-of-pocket expenses incurred during the months of February 2016 and March 2016.

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

### Electronic Notices

If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

### 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

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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 sole issue under review is whether NYSOH properly determined that your enrollment in the Essential Plan was effective April 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 December 21, 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 January 15, 2016 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 January 31, 2016.

However, your mother testified and the record reflects that you elected to receive alerts electronically, at your mother's e-mail account, regarding notices from NYSOH. Your mother credibly testified that she did not receive any electronic alerts regarding the renewal notice, which would have directed you to review the notice in your account, telling you to update your application. 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, nor is there any evidence that a 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.

You renewed your eligibility for financial assistance through NYSOH on February 2, 2016, and submitted revised application through February 12, 2016, which resulted in an eligibility determination notice begin issued on February 13, 2016, and therefore we must 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.

Therefore, the February 13, 2016 notice of eligibility redetermination notice is MODIFIED to state that, effective February 1, 2016, you are newly eligible to enroll in the Essential Plan with a monthly premium of \$20.00, and the February 18, 2016 notice of enrollment is MODIFIED to state that your enrollment in your Essential Plan is effective February 1, 2016.

Please note, however, if email alerts are not being received, you should contact NYSOH immediately to change the method for receiving information from NYSOH, or you should regularly check your NYSOH account for notices.

## **Decision**

The February 13, 2016 notice of eligibility redetermination is MODIFIED to state that, effective February 1, 2016, you are newly eligible to enroll in the Essential Plan with a monthly premium of \$20.00.

The February 18, 2016 notice of enrollment is MODIFIED to state that your enrollment in your Essential Plan is effective February 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above.

**Effective Date of this Decision:** August 22, 2016

## **How this Decision Affects Your Eligibility**

Your enrollment in your Essential Plan should have begun as of February 1, 2016.

Please note, however, if email alerts are not being received, you should contact NYSOH immediately to change the method for receiving information from NYSOH, or you should regularly check your NYSOH account for notices.

## **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.

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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 13, 2016 notice of eligibility redetermination is MODIFIED to state that, effective February 1, 2016, you are newly eligible to enroll in the Essential Plan with a monthly premium of \$20.00.

The February 18, 2016 notice of enrollment is MODIFIED to state that your enrollment in your Essential Plan is effective February 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above.

Your enrollment in your Essential Plan should have begun as of February 1, 2016.

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Please note, however, if email alerts are not being received, you should contact NYSOH immediately to change the method for receiving information from NYSOH, or you should regularly check your NYSOH account for notices.

## **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**

