



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

Notice of Decision

Decision Date: August 05, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007250

[REDACTED]

Dear [REDACTED],

On July 29, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's May 2, 2015 eligibility determination notice and the May 4, 2015 disenrollment 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 and the NY State of Health 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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NY State of Health Account ID: [REDACTED]
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Issue

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

Did NY State of Health properly determine that your spouse's eligibility for enrollment in a qualified health plan ended effective May 31, 2015?

Did NY State of Health properly disenroll your spouse from her Gold level qualified health plan effective May 31, 2015?

Procedural History

On January 3, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination stating that your spouse was conditionally eligible to purchase a qualified health plan at full cost, effective February 1, 2015. The notice further requested that you provide documentation confirming her Social Security number before April 4, 2015.

Also, on January 3, 2015, NYSOH issued a notice confirming your spouse's enrollment in a Gold level qualified health plan.

On January 7, 2015, NYSOH issued a notice of eligibility redetermination stating that your spouse was conditionally eligible to purchase a qualified health plan at full cost, effective February 1, 2015. The notice further requested that you provide documentation confirming your spouse's Social Security number before April 8, 2015.

On January 15, 2015, NYSOH issued a notice of eligibility redetermination stating that your spouse was conditionally eligible to receive advance premium tax credits, effective February 1, 2015. The notice also stated that she was not

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eligible for cost sharing reductions and not eligible for Medicaid because the household income was over the allowable income limit. The notice further requested that you provide proof of her Social Security number before April 16, 2015.

On May 2, 2015, NYSOH issued an eligibility redetermination notice stating that your spouse was no longer eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your spouse also could not enroll in a qualified health plan at full cost because you did not provide her Social Security number within the required timeframe. You also did not tell NYSOH that you could not provide her Social Security number. The notice stated your spouse's eligibility for coverage ended effective May 31, 2015.

On May 4, 2015, NYSOH issued a disenrollment notice stating that your spouse's health insurance coverage in her Gold level plan would end effective May 31, 2015.

On August 26, 2015, NYSOH issued an eligibility redetermination notice that your spouse was eligible for advance premium tax credits effective October 1, 2015.

On February 19, 2016, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it ended your spouse's financial assistance eligibility and enrollment in a qualified health plan on May 31, 2015.

On July 29, 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) You testified that during the time period in question, you received all of your notices from NYSOH via regular mail.
- 2) In the application that was filed on January 2, 2015, you indicated that your spouse could not provide her Social Security number because she was in the process of applying for one.
- 3) You testified that you knew your spouse's eligibility was conditional on your providing her Social Security number to NYSOH.
- 4) You testified that sometime in March 2015, you provided NYSOH with your spouse's Social Security number and also updated your income.

- 5) There is no indication in the record that any updates were made to your account in the month of March 2015.
- 6) You testified that you did not receive any notices stating that your spouse was not eligible to enroll in a qualified health plan at full cost because you had not provided her Social Security number within the required time frame.
- 7) You testified that you did not receive a disenrollment notice stating that your spouse's Gold level qualified health plan would end effective May 31, 2015.
- 8) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 9) You testified that you did not know that your spouse had been disenrolled from her Gold level qualified health plan until August 18, 2015 when you went to get a prescription filled for your newborn daughter.
- 10) You testified that you thought everything was fine with your spouse's Gold level health plan because the plan kept sending you monthly premium invoices for coverage and you continued to pay those invoices. You testified you never received a refund for the premium invoices you paid after NYSOH terminated your spouse's coverage.
- 11) The record reflects that on August 19, 2015 you uploaded to your NYSOH account a copy of your spouse's Social Security card (Document [REDACTED]).
- 12) The record reflects that you filed a complaint (# [REDACTED]) with NYSOH on your spouse's termination from coverage on August 25, 2015 and that that complaint is still pending without resolution. You testified you were never told you could file an appeal.
- 13) You testified that your spouse incurred significant medical expenses relating to the birth of your daughter. These medical expenses were not covered by health insurance.
- 14) You testified that you are seeking reinstatement for your spouse in her qualified health plan as of June 1, 2015 so there will not be a gap in coverage.

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

Applicable Law and Regulations

Timeliness of Appeal

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(1)).

Requirement to Provide Social Security Number

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the validation of Social Security numbers and the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a),(b), (c)).

If NYSOH is unable to validate an applicant's Social Security number, NYSOH must provide the applicant 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. Notice is considered received five days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five day period. (45 CFR § 155.315(b)(2)).

NYSOH-Initiated Termination of Coverage

NYSOH may initiate termination of an enrollee's enrollment in a qualified health plan (QHP) through NYSOH and must permit a QHP issuer to terminate such coverage or enrollment when the enrollee is no longer eligible for coverage in a QHP through NYSOH, including when an enrollee obtains minimum essential coverage, with appropriate notice to the enrollee (45 CFR § 155.430(b)(2)(i), (d)).

For NYSOH-initiated terminations where the enrollee is no longer eligible for coverage in a QHP through NYSOH, the last day of enrollment is the last day of eligibility, as described in 45 CFR § 155.330(f) (45 CFR § 155.430(d)(3)).

Notice of the effective dates for termination of coverage or enrollment must be reasonable, which is defined as at least fourteen days before the requested date of termination (45 CFR § 155.430(d)(1)(i)-(ii)).

Effective dates of termination of coverage or enrollment must be implemented by NYSOH as follows:

- 1) When resulting from a redetermination, the termination date is the first day of the month following the date of the written notice, which must be at least fourteen days before the requested date of termination to be considered timely;
or

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- 2) When resulting from an appeal decision, on the date specified in the appeal decision; or
- 3) When affecting enrollment or premiums only, on the first day of the month following the date on which NYSOH is notified on the change. (45 CFR § 155.330(f)(1)(i)-(iii)).

Legal Analysis

In order for an appeal to have been valid on the issue of the eligibility determination of your spouse for a qualified health plan, as stated in the May 2, 2015 eligibility determination notice, an appeal should have been filed no later than July 1, 2015. However, a complaint (# [REDACTED]) was filed with NYSOH on August 25, 2015 requesting a retroactive effective date for your spouse's coverage. That complaint remains open to this date without resolution. The record reflects that you have regularly contacted NYSOH on the status of the complaint and were advised it was still pending. Since your August 25, 2015 complaint remains open and unresolved, NYSOH Appeals Unit will consider the appeal as having been filed in a timely manner.

Therefore, the first issue under review is whether NYSOH properly determined that your spouse was no longer eligible to enroll in a qualified health plan through NYSOH, effective May 31, 2015.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that they have a valid Social Security number.

If NYSOH cannot verify an individual's Social Security number, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency. For purposes of confirming a Social Security number, notice is considered received 5 days after the date on the notice.

In the eligibility determinations issued on January 4, 2015, January 7, 2015 and January 15, 2015, you were advised that your spouse's eligibility was only conditional and that you needed to provide your spouse's Social Security number before April 4, 2015, April 8, 2015 and April 16, 2015 respectively.

You testified that you knew your spouse's eligibility was conditional on your providing her Social Security number. While you testified that you provided your spouse's Social Security number and updated your account sometime in March 2015, the events tab your NYSOH account, which is part of the record, does not reflect any activity during that time frame. The record does show that you

uploaded a copy of your spouse's Social Security card on August 19, 2015
(Document [REDACTED])

Since the requested proof of Social Security number was not received within the 90 day period, NYSOH was required to redetermine your spouse's eligibility at the end of that period based on the information available. As a result, NYSOH properly determined that your spouse could not enroll in a qualified health plan through NY State of Health effective May 31, 2015 because you did not provide the information on your spouse's Social Security number as requested by NYSOH.

Therefore, NYSOH's May 2, 2015 eligibility determination is correct and is AFFIRMED.

The second issue is whether NYSOH properly disenrolled your spouse from her Gold level qualified health plan effective May 31, 2015.

For NYSOH-initiated terminations where the enrollee is no longer eligible for coverage in a qualified health plan through NYSOH, the last day of enrollment is the last day of eligibility. NYSOH issued a redetermination of your spouse's eligibility on May 2, 2015.

NYSOH's notice of the effective dates for termination of coverage or enrollment must be reasonable, which is defined as at least fourteen days before the date of termination. On May 4, 2015, NYSOH issued a disenrollment notice stating that your spouse's enrollment in her Gold level qualified health plan would end effective May 31, 2015. This notice was issued more than 14 days before the effective end date and is therefore considered reasonable notice.

You testified that did not receive any notice from NYSOH telling you that your spouse was disenrolled from her qualified health plan effective May 31, 2015. You testified that during the time frame in question you received notices from NYSOH 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.

Therefore, the record reflects that NYSOH properly notified you of your spouse's disenrollment from her qualified health plan effective May 31, 2015 and NYSOH's May 4, 2015 disenrollment notice is AFFIRMED.

Decision

The May 2, 2015 notice of eligibility determination is AFFIRMED.

The May 4, 2015 disenrollment notice is AFFIRMED.

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The NYSOH Appeals Unit does not have authority to direct a health care plan provider on its actions. Questions regarding invoicing, premium billing and requests for refunds need to be addressed directly with the health plan provider by the consumer.

Effective Date of this Decision: August 05, 2016

How this Decision Affects Your Eligibility

NYSOH properly found your spouse not eligible to enroll in a qualified health plan because you did not provide her Social Security number within the required time period.

NYSOH properly notified you of your spouse's termination from her Gold level qualified health plan with an effective end date of May 31, 2015.

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 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:

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Summary

The May 2, 2015 notice of eligibility determination is AFFIRMED.

The May 4, 2015 disenrollment notice is AFFIRMED.

NYSOH properly found your spouse not eligible to enroll in a qualified health plan because you did not provide her Social Security number within the required time period.

NYSOH properly notified you of your spouse's disenrollment from her Gold level qualified health plan effective May 31, 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

