



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

## Notice of Decision

Decision Date: October 3, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007826

[REDACTED]

Dear [REDACTED]

On August 30, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 17, 2016 disenrollment, March 4, 2016 eligibility determination and the March 4, 2016 enrollment confirmation 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.

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## Decision

Decision Date: October 3, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007826



## Issues

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

Did NY State of Health (NYSOH) properly determine that you were no longer eligible to remain enrolled in your Medicaid Managed Care plan effective February 29, 2016?

Did NYSOH properly determine that you were eligible for the Essential Plan with a start date of April 1, 2016?

## Procedural History

On December 2, 2014, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid effective December 1, 2014, and you were enrolled in a Medicaid Managed Care plan effective February 1, 2015.

On January 13, 2016, NYSOH issued a renewal notice stating that it was time to renew your health insurance for 2016. That notice also 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 February 15, 2016, or you might lose the financial assistance you were currently receiving.

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

On February 17, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost effective March 1, 2016. The notice further explained you were not eligible for

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Medicaid, Child Health Plus, the Essential Plan, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance because you had not responded to the renewal notice and had not completed your renewal within the required time frame.

Also on February 17, 2016 a disenrollment notice was issued terminating your enrollment in your Medicaid Managed Care plan effective February 29, 2016.

On March 3, 2016, NYSOH received your updated application for health insurance.

On March 4, 2016, an eligibility determination notice was issued finding you eligible to enroll in the Essential Plan effective April 1, 2016. The notice further stated you requested help paying medical bills for three month period prior to your application. The notice stated this determination was based on your attested household income of \$23,995.50.

That same day, an enrollment confirmation notice was issued confirming your enrollment in the Essential Plan effective April 1, 2016.

On March 9, 2016, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it began your Essential Plan on April 1, 2016, and not March 1, 2016.

On August 30, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit with the aid of Greek Interpreter [REDACTED]. 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 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) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 4) You testified that you did not know that you needed to update your account until you went to pick up your medication in March.

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- 5) The record reflects that on March 3, 2016, NYSOH received your updated application for health insurance.
- 6) You testified that you are seeking reinstatement in your Essential Plan effective March 1, 2016.
- 7) Your March 3, 2016, application states you will be filing your 2015 taxes as Married Filing Jointly. You will claim no dependents on that return. You testified this was correct.
- 8) The application you submitted on March 3, 2016, provided an annual household income of \$23,995.50.
- 9) You testified, that you were not sure what your household income was, or how often you receive income.
- 10) Your application states that you live in Queens County.

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

## **Applicable Law and Regulations**

### Medicaid

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2015 FPL, which is \$15,930.00 for a one-person household (80 Fed. Reg. 3236, 3237).

### Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every 12 months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH

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must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (45 CFR §155.335(h)).

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b); Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13 ADM-03(III)(F)).

Medicaid Managed Care (MMC) plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H(6)(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019, NY Social Services Law § 364-j(1)(c); 18 NYCRR § 360-10.3(h); Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13 ADM-03(III)(F)).

### Essential Plan

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), NY Social Services Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2015 FPL, which is \$15,930.00 for a one-person household (80 Fed. Reg. 3236, 3237).

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A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

### 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)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that you were no longer eligible to remain enrolled in your Medicaid Managed Care plan effective February 29, 2016.

You were originally found eligible for Medicaid effective December 1, 2014, you were then enrolled in a Medicaid Managed Care plan effective February 1, 2015.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's January 13, 2016, renewal notice stated that there was not enough information to determine whether you were eligible to continue your financial assistance for health insurance, and that you needed to supply additional information by February 15, 2016, or your financial assistance might end.

Because there was no timely response to this notice, you were terminated from your Medicaid Managed Care plan effective February 29, 2016.

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 explained that

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you were not aware that your insurance had ended until you had tried to renew your prescription medication.

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. During your telephone hearing, you testified that your address is current and correct.

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 enrollment in your health plan and eligibility for financial assistance would continue.

As a result, the February 17, 2016 disenrollment notice was correct and is AFFIRMED.

The second issue is whether NYSOH properly determined you were eligible for the Essential Plan with a start date of April 1, 2016, and not March 1, 2016.

The record supports that on March 3, 2016, you updated the information in your NYSOH account and submitted a request to enroll in an Essential Plan. Your eligibility for the Essential Plan was based on your attested household income.

The application that was submitted on March 3, 2016 listed an annual household income of \$23,995.50 and the March 4, 2016, eligibility determination relied upon that information.

You are in a two-person household. You expect to file your 2015 income taxes as married filing jointly and will claim no dependents on that tax return.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the federal Poverty Level (FPL) for the applicable family size. On the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since an annual household income of \$23,995.50 is 150.63% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan.

The March 4, 2016, determination further found you eligible to enroll in the Essential Plan effective April 1, 2016.

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

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fifteenth of any month. 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.

Since your enrollment and selection of a plan was completed on March 3, 2016, it properly began the first day of the following month, April 1, 2016.

Therefore, since NYSOH's March 4, 2016, eligibility determination properly stated that, based on the information you provided, you were eligible for the Essential Plan, it was correct and is AFFIRMED.

Furthermore, NYSOH's March 4, 2016, enrollment confirmation notice is AFFIRMED because it properly began your enrollment in your Essential Plan on April 1, 2016.

## **Decision**

The February 17, 2016 disenrollment notice is AFFIRMED.

The March 4, 2016 eligibility determination is AFFIRMED.

The March 4, 2016 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** October 3, 2016

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

Your enrollment in your Medicaid Managed Care plan properly ended February 29, 2016.

This decision does not change your current eligibility and enrollment in the Essential Plan effective April 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

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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:  
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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The February 17, 2016 disenrollment notice is AFFIRMED.

Your enrollment in your Medicaid Managed Care plan properly ended February 29, 2016.

The March 4, 2016, eligibility determination is AFFIRMED.

The March 4, 2016, enrollment confirmation notice is AFFIRMED.

This decision does not change your current eligibility and enrollment in the Essential Plan effective April 1, 2016.

### **Legal Authority**

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

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

