



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

Notice of Decision

Decision Date: September 15, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007928

[REDACTED]

Dear [REDACTED],

On August 30, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 9, 2016 and March 11, 2016 eligibility determination notices and the March 11, 2016 enrollment confirmation 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 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: September 15, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007928



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 you were no longer eligible to remain enrolled in your Essential Plan effective February 29, 2016?

Procedural History

On November 6, 2015, the NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time pending your submission of documentation, effective January 1, 2016. The notice requested that you provide proof of your incarceration status before February 3, 2016.

On November 6, 2015, an enrollment confirmation notice was issued confirming your enrollment in the Essential Plan effective January 1, 2016.

On February 9, 2016, the NYSOH issued a notice of eligibility redetermination stating that you were no longer eligible to enroll in health insurance through NYSOH because you had not provided proof of your incarceration status. Your eligibility for coverage ended effective February 29, 2016.

Also on February 9, 2016, NYSOH issued a notice that stated your enrollment in your Essential plan was terminated effective February 29, 2016.

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On March 10, 2016, NYSOH received your updated application for financial assistance with your health insurance.

On March 11, 2016, an eligibility determination notice was issued finding you eligible to enroll in the Essential Plan for a limited time, pending your submission of documentation, effective April 1, 2016. You were asked to provide additional documentation confirming your incarceration status before June 8, 2016.

Also on March 11, 2016 an enrollment confirmation notice was issued stating that your enrollment in an Essential Plan would start April 1, 2016.

On March 15, 2016, you spoke with the NYSOH's Account Review Unit and appealed the February 9, 2016, determination insofar as it found that you were not eligible to enroll in the Essential Plan effective February 29, 2016 and the March 11, 2016 enrollment confirmation notice insofar as your reenrollment in the Essential Plan began April 1, 2016.

On August 30, 2016, you had a telephone hearing with a Hearing Officer from the 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 you have never been incarcerated.
- 2) Your NYSOH account indicates that a response of 02 (County Prison) is coming up as true and received as recently as April 6, 2016.
- 3) You testified that you did not receive the notice requesting documentation confirming your incarceration status, or that you were disenrolled from your Essential Plan February 29, 2016 for failure to provide proof of your incarceration status.
- 4) You testified that you uploaded a copy of your income documents and photo I.D. in response to previous requests for proof of your incarceration status.
- 5) You testified that you believe someone may be using your identity.
- 6) You confirmed that your Social Security number is accurate in NYSOH's records.

- 7) NYSOH records show a prior appeal was created on the issue of your disenrollment due to incarceration status. You testified that this has been an ongoing issue with NYSOH disenrolling you for these reasons.
- 8) The record shows you uploaded photo ID and current paystubs on January 27, 2015, November 5, 2015, March 10, 2016, and April 6, 2016.
- 9) The record shows your documentation was invalidated on November 7, 2015, April 12, 2016, and May 20, 2016.
- 10) A letter was issued on November 7, 2015, stating additional information was needed, showing your Incarceration Status. The document asked for documentation that would be acceptable to NYSOH. "Release Paperwork, a Current Paystub, a Letter from an Employer, or a Detailed Statement from a Parole Officer." See Document: [REDACTED]
- 11) The record shows your documentation was verified as proof of incarceration status on March 14, 2016 and April 12, 2016.
- 12) You testified you incurred medical costs of approximately \$1,084.00 during the month of March, 2016.
- 13) You are seeking reinstatement of your health insurance coverage effective March 1, 2016.

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

Applicable Law and Regulations

Eligibility for Enrollment in the 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).

NYSOH must verify an applicant's attestation that the applicant is not incarcerated by either relying on available electronic data sources, or accepting the applicant's attestation when electronic data sources are unavailable (45 CFR § 155.315(e)). However, if an applicant's attestation is not reasonably compatible with information from approved data sources or other information provided by the applicant, NYSOH must notify the applicant of the inconsistency and provide the applicant with a period of 90 days to present documentation to resolve the inconsistency (45 CFR § 155.315(e)(3), (f)(2)(i)-(ii)).

If the Exchange remains unable to verify the attestation after the 90-day period ends, then it must determine the applicant's eligibility based on the information available in the data sources (45 CFR § 155.315(f)(5)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were no longer eligible to enroll in the Essential Plan, effective February 29, 2016.

On November 6, 2015, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible to enroll in the Essential Plan effective January 1, 2016. Your eligibility was contingent on you providing proof of your incarceration status before February 3, 2016.

An applicant is eligible to enroll in the Essential Plan if he or she is a citizen or national of the United States, is not incarcerated, and is a resident of New York State. If NYSOH cannot verify the information required to determine the applicant's eligibility, then it must provide the applicant a period of 90 days to resolve the inconsistency.

In the eligibility determination issued on November 6, 2015, you were advised that your eligibility was only conditional, and that you needed to provide proof of your incarceration status before February 3, 2016.

During your telephone hearing you credibly testified that you have never been incarcerated, let alone incarcerated for the period of time that NYSOH has determined you were required to provide proof of such status. The record shows you uploaded photo ID and current paystubs on January 27, 2015, and November 5, 2015. However, your documentation was invalidated on November 7, 2015, April 12, 2016, and May 20, 2016.

Since the requested documentation was determined by NYSOH to not have been valid and therefore not received within the 90-day period provided, NYSOH was

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required to redetermine your eligibility based on the information available in the data sources, which according to NYSOH included insufficient information in your account to confirm your incarceration status. As a result, NYSOH determined that you were no longer eligible to remain enrolled in your Essential Plan.

However, the November 6, 2015, eligibility determination on pg. 11 of 12 shows that the list of acceptable documentation you can provide as proof that you are not incarcerated consists of "Release Paperwork, a Current Paystub, a Letter from an Employer, or a Detailed Statement from a Parole Officer."

The documentation you provided consisted of current paystubs for the period in question, but was determined to be invalid on November 7, 2015, April 12, 2016, and May 20, 2016. The reasons for which they were determined invalid were not communicated to you.

There is no record of NYSOH representatives contacting you to alert you to what was missing from your current paystubs, or to get your attestation that you have never been incarcerated after you uploaded your paystubs on November 5, 2015. A letter was issued on November 7, 2015 stating additional information was needed for you to provide documentation showing your Incarceration Status. However, that letter asked for the same four pieces of documentation that would be acceptable to NYSOH. Those acceptable forms of documentation again being "Release Paperwork, a Current Paystub, a Letter from an Employer, or a Detailed Statement from a Parole Officer." See Document: [REDACTED]

You explained that this has been an ongoing issue with your enrollment with NYSOH, and have had a prior appeal on the issue, but continue to be disenrolled from your coverage. Although you have provided NYSOH with all of the requested information, confirmed your Social Security number, and attested to representatives that you have never been incarcerated, you have still been disenrolled from your coverage on at least two separate occasions without sufficient notification regarding what pieces of information you needed to provide.

Therefore, NYSOH's February 9, 2016, eligibility determination disenrolling you from your Essential Plan for failure to provide proof of your incarceration status was improper and is RESCINDED.

The March 11, 2016 eligibility determination notice is MODIFIED to state you are eligible for the Essential Plan effective March 1, 2016.

The March 11, 2016 enrollment confirmation notice is MODIFIED to state that your enrollment in an Essential Plan was effective March 1, 2016.

Your case is RETURNED to NYSOH to effectuate the above changes and to reinstate your Essential Plan coverage effective March 1, 2016.

Decision

The February 9, 2016, eligibility determination is RESCINDED.

The March 11, 2016 eligibility determination notice is MODIFIED to state you are eligible for the Essential Plan effective March 1, 2016.

The March 11, 2016 enrollment confirmation notice is MODIFIED to state that your enrollment in an Essential Plan was effective March 1, 2016.

Your case is RETURNED to NYSOH to effectuate the above changes and to reinstate your Essential Plan coverage effective March 1, 2016. NYSOH is also directed to investigate the code response it has been receiving regarding your incarceration status from state data sources.

Effective Date of this Decision: September 15, 2016

How this Decision Affects Your Eligibility

You were improperly disenrolled from your Essential Plan as of February 29, 2016.

You remain eligible to enroll in the Essential Plan effective March 1, 2016. Your case is being sent back to NYSOH to reinstate your Essential Plan coverage for the month of March, 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 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

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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 9, 2016, eligibility determination is RESCINDED.

You were improperly disenrolled from your Essential Plan as of February 29, 2016.

The March 11, 2016 eligibility determination notice is MODIFIED to state you are eligible for the Essential Plan effective March 1, 2016.

The March 11, 2016 enrollment confirmation notice is MODIFIED to state that your enrollment in an Essential Plan was effective March 1, 2016.

Your case is RETURNED to NYSOH to effectuate the above changes and to reinstate your Essential Plan coverage effective March 1, 2016. NYSOH is also directed to investigate the code response it has been receiving regarding your incarceration status from state data sources.

Legal Authority

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:

