



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

Notice of Decision

Decision Date: September 23, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008006



Dear [REDACTED],

On September 8, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 19, 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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Issue

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

Did NY State of Health properly determine that the enrollments for you, your spouse, and your eldest child in an Essential Plan were effective May 1, 2016?

Did NY State of Health properly determine that your youngest child's enrollment in a Child Health Plus plan was effective May 1, 2016?

Procedural History

On December 26, 2015, you updated your NY State of Health (NYSOH) application for health insurance coverage for your family in 2016.

On December 27, 2015, NYSOH issued a notice that stated the income information you provided did not match what NY State of Health obtained from State and Federal data sources and they could not make an eligibility determination until you provide income documentation or they are able to confirm additional information. The notice further state that, in order for your eligibility to be determined, you must submit income documentation for your household by January 11, 2016 to confirm that the information you provided in your application was accurate.

On December 31, 2015, you faxed in income documents for yourself, your spouse, and your eldest child.

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On January 13, 2016, NYSOH issued a letter that stated the documentation you submitted was insufficient to resolve the inconsistency regarding your household's income and you needed to provide additional proof of income for your eldest child.

On February 18, 2016, you submitted additional income documentation regarding your eldest child's employment.

On March 19, 2016, NYSOH issued a notice of eligibility determination that stated you, your spouse, and eldest child were eligible to enroll in the Essential Plan with a monthly premium of \$20.00 each, effective May 1, 2016, and your youngest child was eligible to enroll in Child Health Plus for a cost of \$9.00 per month, effective May 1, 2016.

Also on March 19, 2016, NYSOH issued a notice of enrollment, based on your plan selection on March 17, 2016, that stated you, your spouse, and eldest child were enrolled in an Essential Plan, effective May 1, 2016 and your youngest child was enrolled in a Child Health Plus plan, effective May 1, 2016.

On March 19, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of all household members' enrollments insofar as coverage did not begin March 1, 2016.

On September 8, 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 submitted an application to NYSOH for financial assistance in 2016 on December 26, 2015.
- 2) According to your NYSOH account, you listed your expected yearly 2016 income as \$20,800.00, your spouse's income as \$8,000.00, and your eldest child's income as \$1,000.00, for a total household income of \$29,800.00.
- 3) According to your December 26, 2015 NYSOH account, your eldest child is full-time student.
- 4) On December 31, 2015, you faxed in an eleven-page document consisting of:

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- (a) A December 22, 2015 disenrollment notice issued by NYSOH that stated your household members' 2015 health insurance coverage was to end December 31, 2015;
 - (b) Copies of your eldest son's earning statements from his seasonal earnings in 2015, with specific check dates as follows: 7/24/2015 showing gross earnings of \$153.91; 8/14/2015 showing gross earnings of \$87.94; 12/4/2015 showing gross earnings of \$58.36 and year-to-date earnings of \$577.78.
 - (c) Your spouse's earning statement for September 2015, October 2015, and November 2015, showing gross earnings totaling \$2,580.00 and \$2,102.00 after business expenses;
 - (d) Your earning statements with earnings you received in December 2015 consisting of check dates and earnings for 12/4/2015 at \$400.00; 12/11/2015 at \$839.38; 12/18/2015 at \$525.00; and 12/24/2015 at \$400.00 with year-to-date gross earnings of \$12,698.43. The statements also contain a hand written notice that your employment started on 6/29/15.
- 5) On January 12, 2016, NYSOH validated your and your spouse's income but invalidated your eldest child's income on the basis that his income documents were too old and he need the most recent 30 consecutive days of pay stubs or a letter from employer stating gross pay and frequency.
- 6) You testified that your eldest child works over the summer in a restaurant and during holiday breaks from school.
- 7) In response to the January 13, 2016 letter from NYSOH, on February 18, 2016, you faxed in a three page document consisting of the first page of that letter, a February 13, 2016 letter from your eldest child's employer confirming that he worked seasonally over the summer of 2015 and on Thanksgiving and Christmas breaks; and the pay he received during those breaks in a Time and Attendance Audit for the period of 11/19/2015 to 1/31/2016. According to that audit report, he worked the weeks of 11/19/15 11/26/15, 12/24/15, and 12/31/15, and had total gross earnings of \$186.21.
- 8) On March 4, 2016, NYSOH invalidated your February 18, 2016 submission on the basis that your eldest son's pay report from his employer does not state the dates of wages earned and four recent weeks of consecutive pay stubs or a letter from the employer stating gross wages and pay frequency were required.

- 9) In your March 17, 2016 updated application, you reported a change in your income to \$35,150.00 because you changed jobs, your spouse's income increased to \$9,000.00, and your eldest child had no income.
- 10) According to your NYSOH account and your testimony, on March 17, 2016, you, your spouse, and your eldest child were enrolled in an Essential Plan and your youngest child was enrolled in Child HealthPlus, with enrollment start dates of May 1, 2016.
- 11) You testified that you would have selected health plans for your household by the 15th day of February 2016, so coverage could begin March 1, 2016, had your income documentation been verified by that date.
- 12) You testified that your family became insured through employer-sponsored insurance as of April 1, 2016, and you are looking for health insurance for your household for the month of March 2016.

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

Applicable Law and Regulations

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)).

Child Health Plus

The "period of eligibility" for Child Health Plus is "that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information

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and documentation and ending on the last day of the twelfth month following such date,” unless the CHP premiums are not timely paid or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law § 2510(6)).

“A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage” (42 CFR § 457.340(f)).

The State of New York has provided that a child’s period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month, if the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second following month (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Legal Analysis

The issue under review is whether NYSOH properly determined that, effective May 1, 2016, you, your spouse, and your eldest child were enrolled in the Essential Plan you selected and your youngest child was enrolled in a Child Health Plus plan.

You testified, and the record indicates, that you updated your NYSOH application for financial assistance on December 26, 2015. As a result, NYSOH issued a letter informing you that your eldest child’s income could not be confirmed and you needed to provide income documents by January 11, 2016, so NYSOH could determine your household members’ eligibility for financial assistance.

According to the record, your household income on December 26, 2015 was listed as \$29,800.00, of which \$1,000.00 was your eldest child’s reported income. According to the 12/4/2015 pay stub for your eldest child, his year-to-date earnings were \$577.78. It is noted that you credibly testified that he is a seasonal employee and that is why the three pay stubs provided were from July 2015 and August 2015 and then December 2015. This information was also confirmed in a letter from your eldest child’s employer, which was submitted on February 18, 2016.

Ordinarily, the date on which enrollment in an Essential Plan, as well as a Child Health Plus plan, can take effect depends on the day a person selects the plan for enrollment.

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A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

In your case, you selected an Essential Plan for you, your spouse, and eldest child and a Child Health Plus plan for your youngest child on March 17, 2016, therefore, your enrollments were properly slated to start on the first day of the second month following March 2016; that is, on May 1, 2016.

However, the record reflects that your eldest child's income could have been discerned from the documentation you provided on December 26, 2015, by comparing his year-to-date earnings listed on his 12/4/15 pay stub of \$577.78 with his income of \$1,000.00 listed on his application. Further, it is reasonable to conclude that his income for the remaining three weeks of December 2015 would be comparable to his gross earnings of \$58.36 as listed on his 12/4/15 paycheck, which when projected to the end of December 2015, equals \$752.86 in total gross earnings.

You further credibly testified that, had the January 12, 2016 validation of all household income been made, you would have selected health plans for your household before February 15, 2016, so that coverage could begin on March 1, 2016.

For these reasons, the March 19, 2016 enrollment confirmation notice stating that enrollment for you, your spouse, and your eldest child in the Essential Plan you selected, and your youngest child's enrollment in a Child Health Plus plan you selected, are MODIFIED to be effective March 1, 2016.

Decision

The March 19, 2016 enrollment confirmation notice stating that enrollment for you, your spouse, and your eldest child in the Essential Plan you selected, and your youngest child's enrollment in a Child Health Plus plan you selected, are MODIFIED to be effective March 1, 2016.

Your case is RETURNED to NYSOH to facilitate the enrollment start dates for your household members in the respective health plans you selected as stated in the March 19, 2016 enrollment confirmation notice.

Effective Date of this Decision: September 23, 2016

How this Decision Affects Your Eligibility

The effective start date for you, your spouse, and your eldest child in the Essential Plan you selected is March 1, 2016.

The effective start date for your youngest child in the Child Health Plus plan you selected is March 1, 2016.

NYSOH will facilitate these enrollment start dates and you will be responsible for and must pay the monthly premiums for coverage to start.

You will be required to provide proof of third party health insurance/employer-sponsored health insurance (known as, a certificate of coverage/insurance) with an effective start date for all household members for coverage through NYSOH to end as of a date certain thereafter.

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 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

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- By mail at:
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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The March 19, 2016 enrollment confirmation notice stating that enrollment for you, your spouse, and your eldest child in the Essential Plan you selected, and your youngest child's enrollment in a Child Health Plus plan you selected, are MODIFIED to be effective March 1, 2016.

Your case s RETURNED to NYSOH to facilitate the enrollment start dates for your household members in the respective health plans you selected as stated in the March 19, 2016 enrollment confirmation notice.

The effective start date for you, your spouse, and your eldest child in the Essential Plan you selected is March 1, 2016.

The effective start date for your youngest child in the Child Health Plus plan you selected is March 1, 2016.

NYSOH will facilitate these enrollment start dates and you will be responsible for and must pay the monthly premiums for coverage to start.

You will be required to provide proof of third party health insurance/employer-sponsored health insurance (known as, a certificate of coverage/insurance) with an effective start date for all household members for coverage through NYSOH to end as of a date certain thereafter.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

