



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

Notice of Decision

Decision Date: October 4, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008367

[REDACTED]

Dear [REDACTED]

On September 28, 2016, you and your friend, [REDACTED], acting as a witness, appeared by telephone at a hearing on your appeal of NY State of Health's March 29, 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: October 4, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008367

[REDACTED]

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 your Essential Plan was effective May 1, 2016?

Procedural History

On October 22, 2015, NYSOH issued a renewal notice, stating that it was time to renew your health insurance for the upcoming coverage year. That notice stated that you could not be enrolled in your current health plan for the next year's coverage and that you must select a different plan between November 16, 2015 and December 15, 2015. This was because you now qualified for Medicaid, effective January 1, 2016.

You updated your account on December 7, 2015.

On December 8, 2015, NYSOH issued an eligibility determination notice stating you were no longer eligible for Medicaid but that coverage would continue until December 31, 2016.

Also, on December 8, 2015, NYSOH issued an enrollment confirmation notice stating you were enrolled in a Medicaid Managed Care Plan, effective January 1, 2016.

On December 19, 2015, NYSOH issued a disenrollment notice stating that you were no longer eligible to enroll in your current health plan, effective January 1, 2016.

On December 20, 2015, NYSOH issued an eligibility determination stating you were eligible for the Essential Plan at a cost of \$20.00 per month, effective January 1, 2016. That notice also stated that you must pick a plan.

On March 28, 2016, you selected an Essential Plan for enrollment.

Also on March 28, 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.

On March 29, 2016, NYSOH issued a notice of enrollment, based on your plan selection on March 28, 2016, stating that you were enrolled in an Essential Plan, and that your plan would start May 1, 2016.

On September 28, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, your friend appeared as a witness on your behalf. 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 account indicates that you receive all of your notices from NYSOH via electronic mail.
- 2) You testified, and the record reflects, that you updated your account on December 7, 2015.
- 3) You testified that you were not aware that your Medicaid coverage was going to end as a result of the update.
- 4) The record reflects that on December 8, 2015, NYSOH issued an enrollment notice stating you were enrolled in a Medicaid Managed Care Plan, effective January 1, 2016. You also submitted a screen shot from your computer that shows your NYSOH account and that you were enrolled in a Medicaid Managed Care plan effective January 1, 2016.
- 5) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you were cancelled

from your Medicaid Managed Care plan or any notice that you were now eligible for the Essential Plan.

- 6) You testified that you did not know that you needed to update your account until you received a bill in March 2016 for a visit to your doctor's office sometime in February 2016.
- 7) The record reflects that on March 28, 2016, NYSOH received your plan selection.
- 8) You 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 month of February 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

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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-healthprogram.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 sole issue under review is whether NYSOH properly determined that your enrollment in your Essential Plan was effective May 1, 2016.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. On October 22, 2015, NYSOH issued an annual renewal notice in your case. That notice stated that you could not be enrolled in your current health plan for the next year's coverage and that you must select a different plan between November 16, 2015 and December 15, 2015. This was because you now qualified for Medicaid, effective January 1, 2016.

You testified, and the record reflects, that you updated your account on December 7, 2015, therefore your renewal was timely. As a result of this update, you were no longer eligible for Medicaid as of December 31, 2015. You credibly testified during the hearing that you were not aware that your Medicaid coverage was going to end as a result of your update.

On December 19, 2015, NYSOH issued disenrollment notice stating that you were no longer eligible to enroll in your current health plan, effective January 1, 2016.

On December 20, 2015, NYSOH issued an eligibility determination stating you were eligible for the Essential Plan at a cost of \$20.00 per month, effective January 1, 2016. That notice also stated that you must pick a plan.

You credibly testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you were cancelled from your Medicaid Managed Care plan, or that you were newly eligible to enroll in the Essential Plan. You testified that you did not know that you needed to update your account until you received a bill in March 2016 for a visit to your doctor's office sometime in February 2016.

In this regard, the record reflects that you elected to receive email alerts regarding communications and information from NYSOH. There is no evidence in your account documenting that any email alert was sent to you regarding the December 19, 2015 disenrollment notice or the December 20, 2015 eligibility determination, 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 your insurance ended effective December 31, 2015.

Had you been given proper notice of the change in your plan eligibility, you could have selected an Essential Plan with coverage effective February 1, 2016.

Therefore, the March 29, 2016, enrollment confirmation notice is MODIFIED to state that your enrollment in your Essential Plan with a monthly premium of \$20.00, is effective February 1, 2016. You will be responsible for the premiums for the months of February, March and April 2016.

Your case is RETURNED to NYSOH to backdate your Essential Plan coverage for the months of February, March, and April 2016.

Decision

The March 29, 2016 enrollment confirmation notice is MODIFIED to state that your enrollment start date in your Essential Plan is effective February 1, 2016.

Your case is RETURNED to NYSOH to backdate your Essential Plan coverage for the months of February, March, and April 2016.

Effective Date of this Decision: October 4, 2016

How this Decision Affects Your Eligibility

Your enrollment in your Essential Plan should have begun as of February 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 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

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The March 29, 2016 enrollment confirmation notice is MODIFIED to state that your enrollment start date in your Essential Plan is effective February 1, 2016.

Your case is RETURNED to NYSOH to backdate your Essential Plan coverage for the months of February, March, and April 2016.

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

Legal Authority

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

A Copy of this Decision Has Been Provided To:

