



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

Notice of Decision

Decision Date: November 28, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008619

[REDACTED]

Dear [REDACTED]

On October 12, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 31, 2016 eligibility determination 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.

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Decision

Decision Date: November 28, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008619



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 enrollment in an Essential Plan was effective May 1, 2016?

Procedural History

On October 22, 2015, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that, based on information from Federal and State sources, you now qualified for Medicaid effective January 1, 2016. This was because State and Federal data sources showed your income was within the range allowable for Medicaid. The notice stated you must select a health plan between November 16, 2015 and December 15, 2015 to continue your coverage.

On November 27, 2015, you accessed your NYSOH and updated your account information including your household income. You also selected a Medicaid Managed Care plan.

On December 19, 2015, NYSOH issued a cancellation notice stating that your Medicaid Managed Care plan would end effective January 1, 2016. This was because you were no longer eligible to enroll in your current health insurance.

On December 20, 2015, NYSOH issued an eligibility redetermination notice that stated that you qualified for the Essential Plan with a \$20.00 per month premium effective January 1, 2016. This determination was based on a household income

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listed in your November 27, 2015 application of \$18,800.00. That same notice stated that you no longer qualified for Medicaid as of December 31, 2015, and that you needed to pick a health plan.

On March 31, 2016, NYSOH received your updated application for health insurance.

On April 1, 2016, NYSOH issued a notice of eligibility redetermination, based on your March 31, 2016 application, stating that you were eligible to enroll in the Essential Plan with \$0.00 monthly premium, effective May 1, 2016. This was based on your listed household income of \$17,446.00.

Also on April 1, 2016, NYSOH issued a notice of enrollment, based on your plan selection on March 31, 2016, stating that you were enrolled in Essential Plan 2, with \$0.00 per month premium and that your plan would start May 1, 2016.

On April 4, 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 January 1, 2016.

On October 12, 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 supports the following findings of fact:

- 1) According to your NYSOH account and your testimony, during the time period in question, you received all of your notices from NYSOH via electronic alert.
- 2) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to update your application in order to renew your eligibility and to re-enroll. You also did not receive any renewal notice by regular mail.
- 3) You testified that you did not receive any electronic notice or regular mail regarding the December 19, 2015 cancellation notice that terminated your Medicaid Managed Care coverage effective January 1, 2016.
- 4) You testified that you did not receive any electronic notice or regular mail regarding the December 20, 2015 eligibility redetermination that you were eligible to enroll in the Essential Plan and that you needed to pick a plan.

- 5) You testified and your account reflects that you went to a Certified Account Counselor (CAC) on November 27, 2015 and updated your account.
- 6) You testified that the CAC told you that upon updating your account you were eligible for a no cost program. With the assistance of the CAC you selected a Medicaid Managed Care plan, Excellus BCBS.
- 7) You testified that you received your health identification card from Excellus which indicated you were enrolled in the Excellus Blue Choice option with plan code [REDACTED] with a start date of January 1, 2016.
- 8) According to your NYSOH account, this enrollment in Excellus BCBS Managed Medicaid Care plan was processed on November 28, 2016 as a new enrollment with a coverage start date of January 1, 2016.
- 9) According to your NYSOH account, the November 27, 2015 preliminary eligibility determination was erroneous. Based upon your listed household income of \$18,800.00 in your updated application, you would not have been eligible for Medicaid.
- 10) On December 20, 2015, NYSOH issued a cancellation notice stating your Medicaid Managed Care plan was cancelled as of January 1, 2016. This was to correct the system error in finding you preliminarily eligible for Medicaid, on November 27, 2015.
- 11) You testified that you had health issues so you requested and received prior approval from your Medicaid Managed Care plan for a surgical procedure to be performed in March 2016.
- 12) You testified that when you entered the hospital in March 2016 for the surgery, at check in you were told they could not find you in the insurance system. You testified that you showed them your health ID card and a pre-approval letter from Excellus for the surgery. Based on that documentation, you were admitted and the surgery was performed.
- 13) You testified that, subsequent to the surgery, you started receiving bills associated with the medical treatment and that is when you first learned you did not have health insurance.
- 14) According to your NYSOH account and your testimony, on March 31, 2016, you updated your account and submitted an application for financial assistance. On that same date, you were told you were eligible for the Essential Plan and you made your selection of an Essential plan.
- 15) You testified that for the months of January 2016, February 2016 and March 2016, you thought you had health coverage through Medicaid

because you had received a benefits card from Excellus BCBS and because you received pre-approval for the surgery from Excellus.

- 16) You testified that you work for a [REDACTED] earning \$12.66 an hour and work a 30 hour week.
- 17) You testified that the \$18,800.00 household income estimate on the November 27, 2015 application was accurate at the time.
- 18) You testified that the \$17,446.00 household income listed on the March 31, 2016 application was accurate because you had stopped working part time at another [REDACTED] so your income decreased slightly.
- 19) You testified that you will file your 2016 federal taxes as single and will not claim any dependents on your tax return.
- 20) According to your NYSOH account and your testimony, you live in Ontario County.
- 21) You testified that you wanted your enrollment in an Essential Plan to begin on January 1, 2016, because you would otherwise have a gap in insurance coverage from January 1, 2016 to May 1, 2016 and you have outstanding medical bills for that period of time.

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

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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

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

Generally, NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance 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 October 22, 2015 renewal notice stated that, based on information from Federal and State data sources, you qualified for Medicaid effective January 1, 2016 because your income was within the range allowable for Medicaid. The

notice stated you needed to select a health plan between November 16, 2016 and December 15, 2015 to continue your coverage.

You testified, and the record indicates, that with the assistance of a CAC you updated your NYSOH application on November 27, 2015. At that time, a preliminary eligibility determination was made that indicated you were eligible for continued Medicaid coverage. You testified that the CAC said you were eligible for a no cost health plan. You enrolled into a Medicaid Managed Care plan that day.

Your account reflects that your enrollment into Excellus BCBS Medicaid Managed Care plan was processed on November 28, 2015 as a new enrollment.

You testified that you received a benefits card from Excellus that showed a plan start date of January 1, 2016.

However, your NYSOH account shows that no enrollment confirmation notice was ever sent regarding your November 27, 2016 Medicaid Managed Care plan selection.

A regular systematic check of your eligibility by NYSOH on December 19, 2015, determined that you had been preliminarily found eligible for Medicaid in error. On December 20, 2016, NYSOH issued a cancellation notice stating that your coverage with your Medicaid Managed Care plan, Excellus would end effective January 1, 2016.

Also on December 20, 2015, NYSOH issued an eligibility redetermination that stated you were eligible to enroll in the Essential Plan effective January 1, 2016. That same notice stated you no longer qualified for Medicaid as of December 31, 2015.

However, you credibly testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically; that is, via email. You credibly testified that you did not receive any email alert regarding the December 20, 2015 cancellation notice or the eligibility redetermination notice stating you were eligible for the Essential Plan effective January 1, 2016. There is no evidence in your account showing that any email alert was sent to you regarding the need to renew your application, that any such electronic notice failed, or that the notice was later sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give the required notice to you that your Medicaid Managed Care plan was cancelled or that you needed to update your account and select an Essential Plan.

Once you learned you no longer had insurance in late March 2016 because of the medical bills you were receiving after your surgery, you updated your account

and submitted an application for financial assistance through NYSOH on March 31, 2016. We must assume that the information you provided on March 31, 2016 is the information that would have been used in December 2016 had you been timely informed of the cancellation of your health insurance and your eligibility for the Essential Plan.

Therefore, the April 1, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, you are eligible to enroll in the Essential Plan, at no cost and with co-pays for certain services; and the April 1, 2016 enrollment notice is MODIFIED to state that your enrollment in your Essential Plan 2 is effective January 1, 2016.

Decision

The April 1, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, you were eligible to enroll in the Essential Plan, at no cost and with co-pays for certain services.

The April 1, 2016 enrollment notice is MODIFIED to state that your enrollment in your Essential Plan 2 is effective January 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above and to notify you accordingly.

You may be responsible for co-pays for certain services you received. Your Essential Plan will notify you accordingly.

Effective Date of this Decision: November 28, 2016

How this Decision Affects Your Eligibility

Your enrollment in your Essential Plan should have been effective as of January 1, 2016.

Your case is being returned to NYSOH to make your Essential Plan coverage effective January 1, 2016. NYSOPH will notify you once this has been completed.

Your Essential Plan will also notify you if you have co-pays for certain services that you received.

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

The April 1, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, you were eligible to enroll in the Essential Plan, at no cost and with co-pays for certain services.

The April 1, 2016 enrollment notice is MODIFIED to state that your enrollment in your Essential Plan 2 is effective January 1, 2016.

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Your case is RETURNED to NYSOH to effectuate the changes listed above and to notify you accordingly.

You may be responsible for co-pays for certain services you received. Your Essential Plan will notify you accordingly.

Your enrollment in your Essential Plan should have been effective as of January 1, 2016.

Your case is being returned to NYSOH to make your Essential Plan coverage effective January 1, 2016. NYSOPH will notify you once this has been completed.

Your Essential Plan will also notify you if you have co-pays for certain services that you received.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

