



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

## Notice of Decision

Decision Date: October 28, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008693

[REDACTED]

Dear [REDACTED]

On October 19, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 24, 2015 eligibility determination.

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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: October 28, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008693

[REDACTED]

## Issues

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

Was your appeal of the NY State of Health's (NYSOH) December 24, 2015 eligibility determination and enrollment confirmation notices timely?

Did NY State of Health properly determine that your enrollment in an Essential Plan was effective February 1, 2016?

## Procedural History

On November 3, 2014, NYSOH issued a renewal notice stating that your eligibility had been redetermination for Medicaid effective January 1, 2015. On December 9, 2014, NYSOH issued an enrollment confirmation stating that you had been enrolled in a Medicaid Managed Care plan, effective February 1, 2015.

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, 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 December 15, 2015 or you might lose the financial assistance you were currently receiving.

No updates were made to your account by December 15, 2015.

On December 21, 2015, NYSOH issued an eligibility redetermination notice stating that you were not eligible for Medicaid, Child Health Plus, the Essential

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Plan or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame. Your eligibility was to end December 31, 2015.

On December 23, 2015, NYSOH received your updated application for health insurance.

On December 24, 2015, NYSOH issued an eligibility redetermination notice stating that you were eligible to enroll in the Essential Plan, with a \$20.00 monthly premium, effective February 1, 2016.

Also on December 24, 2015, NYSOH issued an enrollment confirmation notice based on your December 23, 2015 plan selection, stating that you were enrolled in an Essential Plan, with a \$20.00 monthly premium and that your plan would start February 1, 2016.

On April 6, 2016, you spoke to NYSOH's Account Review Unit and appealed the enrollment start date of your Essential Plan.

On October 19, 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) 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. (Document [REDACTED])
- 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. You also did not receive any renewal notice by regular mail.
- 3) You testified that you did not know that you needed to update your account until the later part of December 2015 when you received a letter from your Medicaid Managed Care plan concerning your coverage for 2016.
- 4) According to your NYSOH account, on December 23, 2015, NYSOH received your updated application for health insurance.

- 5) You credibly testified that when you updated your account on December 23, 2015, you changed the manner in which you receive notices from NYSOH from paperless to paper to avoid future problems.
- 6) You testified that you did not receive either the December 24, 2015 eligibility redetermination notice stating that you were eligible for the Essential Plan effective February 1, 2016 or the December 24, 2016 enrollment confirmation notice.
- 7) You testified that, in January 2016, you received an insurance card from your Medicaid Managed Care plan which you believed was a renewal of your Medicaid coverage starting January 1, 2016.
- 8) You also testified that, when you spoke with NYSOH's Account Review Unit, you were told there is an inactive account ( [REDACTED] ) with your name and that this may have caused a problem with you receiving notices.
- 9) You testified that it was not until late March 2016, when you received a bill for medical treatment you had in January 2016, that you realized that there was a problem with your health insurance.
- 10) You testified that you are seeking to have your Essential Plan start date changed to January 1, 2016 in order to cover medical bills incurred during the month of January 2016.

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

## **Applicable Law and Regulations**

### Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

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Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

### 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

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

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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 initial issue under review is whether your appeal of NYSOH's December 24, 2015 eligibility determination notice and the December 24, 2015 enrollment confirmation notice was timely.

The record reflects that you first contacted NYSOH to file a complaint about the start date of your Essential Plan was on April 6, 2016. The record indicates that a formal appeal was filed on that day.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of the effective date of your Essential Plan as stated in the December 24, 2015 eligibility determination and the enrollment confirmation notice of the same date, an appeal should have been filed by February 22, 2016. The record reflects that you filed your appeal on April 6, 2016, which is well beyond the 60 day deadline.

However, you credibly testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically (Document [REDACTED]). Further, you credibly testified that you never received any electronic alerts regarding the December 24, 2015 eligibility determination or the December 24, 2015 enrollment confirmation notice. You credibly testified that you received an enrollment card from the Medicaid Managed Care provider that seemed to indicate that you had insurance coverage with them as of January 1, 2016.

Further, you credibly testified that you became aware that there was a problem with your health insurance only after you received a bill from a medical care provider in late March 2016 for services received in January 2016. You testified that receiving this bill prompted you to contact NYSOH to inquire about your health insurance on April 6, 2016. You testified that it was then that you learned you were not in Medicaid but the Essential Plan and you had a gap in coverage for the month of January 2016.

Therefore, it is reasonable to conclude that you filed your appeal within a reasonably short time of learning that there was a problem with your insurance coverage in late March 2016 to your appeal date of April 6, 2016. Therefore, your appeal was filed timely.

The second issue under review is whether NYSOH properly determined that your enrollment in the Essential Plan was effective February 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 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 December 15, 2015, or your financial assistance might end.

However, you credibly testified and the record reflected that you elected to receive alerts regarding notices from NYSOH electronically; that is, via email (Document [REDACTED]). You credibly testified that you did not receive any email alert regarding the October 22, 2015 notice that directed you to update the information in your NYSOH account. 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 you the required notice to you that you needed to update your account.

You first renewed your eligibility for financial assistance through NYSOH for the upcoming coverage year on December 23, 2015 and, therefore, we must assume that the information you provided at that time is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

Therefore, the December 24, 2015 eligibility redetermination notice is MODIFIED to state that, effective January 1, 2016, you are eligible to enroll in the Essential Plan, with a \$20.00 per month premium and the December 24, 2015 notice of enrollment is MODIFIED to state that your enrollment in your Essential Plan is effective January 1, 2016.

## **Decision**

The December 24, 2015 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, you are eligible to enroll in the Essential Plan, with a \$20.00 per month premium.

The December 24, 2015 notice of enrollment is MODIFIED to state that your enrollment in your Essential Plan is effective January 1, 2016.

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Your case is RETURNED to NYSOH to effectuate the changes listed above.

**Effective Date of this Decision:** October 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 sent back to NYSOH to make your Essential Plan start date effective January 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:

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- By fax: 1-855-900-5557

## **Summary**

The December 24, 2015 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, you are eligible to enroll in the Essential Plan, with a \$20.00 per month premium.

The December 24, 2015 notice of enrollment is MODIFIED to state that your enrollment in your Essential Plan is effective January 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above.

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

Your case is being sent back to NYSOH to make your Essential Plan start date effective January 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:**

