



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

## Notice of Decision

Decision Date: December 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008730

[REDACTED]

Dear [REDACTED],

On November 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 9, 2016 disenrollment notice and enrollment confirmation notices, and April 7, 2016 eligibility determination and enrollment confirmation notices.

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 NY State of Health 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: December 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008730



## Issues

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

Did NY State of Health properly enroll you in an Essential Plan 1 with a \$20.00 premium effective January 1, 2016?

Did NY State of Health properly determine that your enrollment in an Essential Plan 2 with a \$0.00 premium was effective May 1, 2016?

## Procedural History

On December 14, 2015, NY State of Health (NYSOH) received your updated application for financial assistance.

On December 15, 2015, NYSOH issued an eligibility determination based on the December 14, 2015 application, stating that you are eligible to enroll in the Essential Plan with a \$0.00 monthly premium for a limited time, effective January 1, 2016. It further stated you needed to confirm your income by providing documentation before March 13, 2016.

On December 15, 2015, an enrollment confirmation notice was issued confirming your enrollment in an Essential Plan 2 with \$0.00 per month premium effective January 1, 2016.

On February 20, 2016, NYSOH received your income documentation.

On March 8, 2016, four applications for health insurance were submitted to NYSOH. In the first and second applications submitted by an NYSOH

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representative, preliminary eligibility determinations were prepared stating that you were eligible for the Essential Plan with a \$20.00 per month premium. In the third and fourth applications submitted a preliminary eligibility determination was unable to be made because your information did not match what NYSOH had obtained from State and Federal data sources.

On March 9, 2016, a notice was issued asking for more information to make a determination on your eligibility. You were asked to provide income documentation by March 24, 2016.

Also on March 9, 2016, an enrollment confirmation notice was issued confirming your enrollment in an Essential Plan 1 with a \$20.00 premium per month effective January 1, 2016.

Finally on March 9, 2016, a disenrollment notice was issued terminating your coverage in your Essential Plan 1, effective March 31, 2016.

On March 29, 2016 an application was submitted to NYSOH on your behalf.

On March 30, 2016, a notice was issued asking for more information to make a determination on your eligibility. You were asked to provide income documentation by April 14, 2016.

Also on March 30, 2016, NYSOH received your additional income verification documents.

On April 4, 2016, NYSOH invalidated your income documentation.

On April 6, 2016, NYOSH received your updated application for financial assistance. That day a preliminary eligibility determination notice was issued finding you eligible to enroll in the Essential Plan effective May 1, 2016. The notice stated this eligibility was based on the condition that you confirm your income by providing documentation before July 5, 2016.

On April 6, 2016, you enrolled in an Essential Plan 2 with \$0.00 premium per month effective May 1, 2016. This enrollment was confirmed by notice on April 7, 2016.

On April 6, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the eligibility determination and start date of your Essential Plan 2 start date.

On April 8, 2016, NYSOH received your income verification documents.

On April 14, 2016, your income documentation was invalidated.

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On April 15, 2016, your income documentation was validated.

On November 22, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During your hearing you clarified that you were appealing the gap in coverage for the month of April 2016, the application of the Essential Plan 2 premium responsibility of \$20.00 per month effective January 1, 2016, and co-payments currently being charged to you by facilities you visited when enrolled in the Essential Plan 2. 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) You testified and your application confirms that you expect to file your 2016 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 2) You are seeking insurance for yourself.
- 3) You testified you are seeking to be found eligible for the Essential Plan 2 with \$0.00 premium effective January 1, 2016, and to have no gap in coverage for the month of April, 2016.
- 4) The application that was submitted on December 14, 2015, which requested financial assistance, listed annual household income of \$17,500.00, consisting of income you earn from your self-employment through your business. You testified that this amount was correct.
- 5) On March 8, 2016, four applications were submitted in your account by NYSOH representatives. The applications included income amounts of \$20,444.00 twice, an income of \$13,284.00, and an income of \$14,284.00.
- 6) On March 29, 2016, your application was updated by a NYSOH representative and your income was submitted as \$14,284.00.
- 7) On April 6, 2016, your application was updated by a NYSOH representative as \$16,800.00, making you eligible for the Essential Plan 2 with a \$0.00 premium responsibility.
- 8) You provided income documentation on March 30, 2016, in the form of your 941 quarterly Federal Tax return for October, November, and December, 2015, your 2014,1040 schedule E, and your W-2 for 4<sup>th</sup> quarter of 2015. The documentation was invalidated on April 4, 2016.

- 9) The notes in your NYSOH account state your income documentation was invalidated on April 4, 2016 because you had attested to business income of \$13,086.00 for 2015 which was not available on the document submitted. The note further says a 2015 1040 earning/expense report for December 2015, January 2016, and February, 2016 were required, and that the due date would be extended to provide this.
- 10) You provided income documentation on April 8, 2016, in the form of a handwritten accounting of your self-employment income with expenses for January, February, and March, 2016. The documentation was invalidated on April 14, 2016 (See Document [REDACTED])
- 11) The record supports that on April 15, 2016, your income documentation which you had provided on April 8, 2016, was validated, but no document was offered as proof of this validation other than a notation in your account that you had submitted earnings and expense records for the previous three months which the document referred to. (See Document [REDACTED])
- 12) You testified that although you did not incur medical costs during the month of April, 2016 which were not covered, you do currently have medical facilities you visited in January, February, and March, 2016, requesting that you reimburse them co-payments which were not initially requested for when you covered under your Essential Plan 2.
- 13) Your application states that you live in Oneida County.

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

## **Applicable Law and Regulations**

### 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).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2015 FPL, which is \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

### 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)).

### Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow the NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i)). If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f); 42 CFR §600.345 (a)) See also New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

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## Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, deductions that are attributable to a trade or business may be deductions from a taxpayers adjusted gross income (26 USC § 62 (a)(1)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly enrolled you in an Essential Plan 1 with a \$20.00 premium effective January 1, 2016.

You first applied for financial assistance for 2016 on December 14, 2015. The application listed annual household income of \$17,500.00.

As a result of the information received on December 14, 2015, you were eligible for, and enrolled in the Essential Plan 2, with \$0.00 premium effective January 1, 2016. This determination was only conditional as it was subject to you providing acceptable income documentation to NYSOH.

On March 8, 2016, four applications were submitted in your account by NYSOH representatives. The applications included income amounts of \$20,444.00 twice, an income of \$13,284.00, and an income of \$14,284.00. The first two applications of \$20,444.00 found you now eligible at a FPL of 173.7% and enrolled you in an Essential Plan 1 with a \$20.00 premium per month effective January 1, 2016.

The date on which eligibility for and enrollment in an Essential Plan can take effect depends on the day a person updates the information in their NYSOH account.

Accounts that are updates between the first day to and including the fifteenth day of a month go into effect on the first day of the following month.

Since the updates to your account were made on March 8, 2016, any changes to your eligibility or enrollment in an Essential Plan should not have been made effective until April 1, 2016.

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Therefore, the determinations that day should have left your prior enrollment with the Essential Plan 2 at \$0.00 premium effective January 1, 2016 and continuing to March 31, 2016, subject to you providing acceptable proof of your income.

Accordingly, the March 9, 2016, enrollment confirmation notice confirming your enrollment in an Essential Plan 1 with a \$20.00 premium per month effective January 1, 2016, is RESCINDED.

The second issue is whether NYSOH properly determined that your enrollment in an Essential Plan 2 with \$0.00 per month premium was effective May 1, 2016.

After your initial application for financial assistance on December 14, 2015, NYSOH requested income documentation be provided by March 13, 2016.

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow the NYSOH to verify the household's income. If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence

On February 20, 2016, you provided a copy of your 2014 1040 individual tax return. This documentation was invalidated on April 4, 2016. The notes in your NYSOH account indicate this was because you had attested to business income of \$13,086.00 for 2015 which was not available on the document submitted. The note further says "a 2015 1040 earning/expense report for December 2015, January 2016, and February, 2016 were required, and that the due date would be extended to provide this."

On March 8, 2016, four applications were submitted to NYSOH on your behalf. In the third and fourth applications submitted a preliminary eligibility determination was unable to be made because your information did not match what NYSOH had obtained from State and Federal data sources.

As a result of the updates made on March 8, 2016, you were then disenrolled from your Essential Plan as of March 31, 2016 because NYSOH was unable to confirm the income you had entered into the application because you did not provide satisfactory income documentation.

You then updated the income amount in your application after contacting NYSOH on April 6, 2016. The updated income amount you stated was \$16,800.00. This placed you at a FPL of 142.74%. As a result, you were found eligible for the Essential Plan 2 with \$0.00 per month premium as of April 6, 2016, and enrolled into a plan that day for an effective date of May 1, 2016.

The date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

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.

On April 6, 2016, you selected an Essential Plan based on the condition that your income documentation be validated which it was on April 15, 2016. So your enrollment properly took effect on the first day of the first of the month following April; that is, on May 1, 2016.

The April 7, 2016 eligibility determination and enrollment confirmation notices were proper and are AFFIRMED.

Your case is RETURNED to NYSOH to ensure you are enrolled back into your Essential Plan 2, with \$0.00 premium per month effective January 1, 2016-March 31, 2016.

## **Decision**

The March 9, 2016, enrollment confirmation notice confirming your enrollment in an Essential Plan 1 with a \$20.00 premium per month effective January 1, 2016, is RESCINDED.

Your case is RETURNED to NYSOH to ensure you are enrolled back into your Essential Plan 2, with \$0.00 premium per month effective January 1, 2016-March 31, 2016.

The April 7, 2016, eligibility determination, and enrollment confirmation notices were proper and are AFFIRMED.

**Effective Date of this Decision:** December 12, 2016

## **How this Decision Affects Your Eligibility**

You remain eligible for the Essential Plan 2, with \$0.00 premium January 1, 2016 to March 31, 2016.

You are eligible for Essential Plan 2, with \$0.00 premium effective May 1, 2016.

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## **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 after 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 March 9, 2016, enrollment confirmation notice confirming your enrollment in an Essential Plan 1 with a \$20.00 premium per month effective January 1, 2016, is RESCINDED.

Your case is RETURNED to NYSOH to ensure you are enrolled back into your Essential Plan 2, with \$0.00 premium per month effective January 1, 2016-March 31, 2016.

You are eligible for the Essential Plan 2, with \$0.00 premium January 1, 2016 to March 31, 2016.

The April 7, 2016 eligibility determination and enrollment confirmation notices were proper and are AFFIRMED.

You are eligible for Essential Plan 2, with \$0.00 premium effective May 1, 2016.

### **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545.

**A Copy of this Decision Has Been Provided To:**

