



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

Notice of Decision

Decision Date: December 8, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008886

[REDACTED]

Dear [REDACTED],

On October 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 15, 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 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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Issues

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

Did NY State of Health (NYSOH) properly determine that you and your spouse were newly eligible to purchase a qualified health plan at full cost effective January 1, 2016?

Did NY State of Health properly determine that your and your spouse's enrollment in an Essential Plan was effective April 1, 2016?

Procedural History

On October 23, 2015, NYSOH issued a renewal notice, stating in relevant part that, based upon federal and state data sources, your household income was between \$50,688.00 and \$73,460.00 and this qualified you and your spouse for the Essential Plan with monthly premiums of \$20.00 each, effective January 1, 2016. Further, that notice stated you and your spouse had been enrolled in an Essential Plan with Healthfirst because this plan was similar to the coverage you had before with this insurance company.

On December 11, 2015, NYSOH received your updated application for health insurance.

On December 12, 2015, NYSOH issued a notice of enrollment, based on your plan selection on December 11, 2015, stating in part that you and your spouse were enrolled in an Essential Plan with monthly premiums of \$20.00 each, and that your plan would start January 1, 2016.

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Also on December 12, 2015, NYSOH issued a notice of eligibility redetermination, based on your December 11, 2015 updated application, stating in part that you and your spouse were newly eligible to purchase a qualified health plan at full cost, effective January 1, 2016. The notice further stated you and your spouse did not qualify for Medicaid, Child Health Plus, the Essential Plan or to receive a tax credit to help pay for the cost of coverage because the income you provided in your application was over \$144,120.00, which is above the allowable income limit for these programs.

On December 15, 2015, NYSOH issued a notice of enrollment confirming in part your and your spouse's selection of a silver-level qualified health plan as of December 14, 2015, at a monthly cost of \$844.84. The notice stated that your coverage would begin effective January 1, 2016.

On December 17, 2015, NYSOH issued a cancellation notice stating that your and your spouse's coverage in Essential Plan 1 would end effective January 1, 2016.

On December 20, 2015, NYSOH issued a notice of eligibility redetermination stating in part that you and your spouse were eligible to purchase a qualified health plan at full cost, effective January 1, 2016.

Also on December 20, 2015, NYSOH issued a notice confirming your and your spouse's enrollment in the silver-level qualified health plan with a premium of \$844.84 per month, effective January 1, 2016.

On March 14, 2016, NYSOH received your updated application for health insurance.

On March 15, 2016, NYSOH issued an eligibility redetermination notice based on the information contained in your updated March 14, 2016 application. The notice stated in part that you and your spouse were eligible to enroll in the Essential Plan with monthly premiums of \$20.00 each, effective April 1, 2016.

Also on March 15, 2016, NYSOH issued a disenrollment notice stating your and your spouse's coverage in the silver-level qualified health plan would end effective March 31, 2016.

Also on March 15, 2016, NYSOH issued a notice of enrollment, based on your plan selection on March 14, 2016 stating in part that you and your spouse were enrolled in Essential Plan 1 with monthly premiums of \$20.00 each, and that your plan would start April 1, 2016.

On April 13, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your and your spouse's enrollment in the Essential Plan insofar as it did not begin January 1, 2016.

On October 21, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open for 14 days for you to submit a copy of your 2015 federal personal income tax return. On November 3, 2016 the Appeals Unit received via secure fax a copy of your 2015 U.S. Individual Income Tax Return. This 3 page document was made part of the record as "Appellant's Exhibit # 1." The record is now closed.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) According to your NYSOH account and your testimony, your tax status is married filing jointly and you will claim 5 dependents.
- 2) You testified that you are self-employed.
- 3) According to your NYSOH account, on October 23, 2015, NYSOH determined that, based on federal and state data sources, your household income was in the range that qualified you and your spouse for the Essential Plan. At that time, NYSOH enrolled you and your spouse in an Essential Plan with \$20.00 monthly premium each with a plan start date of January 1, 2016.
- 4) According to your NYSOH account and your testimony, you updated your account on December 11, 2015 by calling NYSOH and seeking assistance from a representative. You testified that you told the representative your anticipated income was \$89,000.00.
- 5) According to your NYSOH account, the representative input your income as \$890,000.00 instead of \$89,000.00.
- 6) According to your 2015 U.S. Individual Income tax return, your 2015 adjusted gross income was \$61,303.00 (Appellant Exhibit #1).
- 7) On December 12, 2015, NYSOH issued an eligibility redetermination that stated you and your spouse were not eligible for Medicaid, Child Health Plan, the Essential Plan or to receive a tax credit to help pay for the cost of coverage based on this erroneous income amount of \$890,000.00.

- 8) As a result of this December 12, 2015 eligibility redetermination, you and your spouse's Essential Plan coverage that was scheduled to start January 1, 2016 was cancelled.
- 9) You testified that you were confused by the changes in eligibility issued by NYSOH but in order to maintain insurance coverage you selected a full cost silver-level qualified health plan for you and your spouse and paid the premiums for coverage to start on January 1, 2016.
- 10) According to your NYSOH account and your testimony, on March 14, 2016, you updated your account with a corrected income amount and submitted an application for financial assistance in which you attested to an annual household income of \$60,000.00. As a result of this application, you and your spouse were again found eligible for the Essential Plan, effective April 1, 2016.
- 11) According to your NYSOH account and your testimony, you and your spouse enrolled in an Essential Plan on March 14, 2016.
- 12) You testified that you wanted your and your spouse's enrollment in an Essential Plan to begin on January 1, 2016 rather than April 1, 2016, and to recoup the premiums you paid for your and your spouse's silver-level qualified health plan for the months of January 2016, February 2016 and March 2016.
- 13) You testified that you had several medical bills during the months of January 2016, February 2016 and March 2016 which were subject to co-pays and deductibles under your silver-level qualified health plan.

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

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§ 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).

The Essential Plan is considered minimum essential coverage therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

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 first issue under review is whether NYSOH properly determined that you and your spouse were newly eligible to purchase a qualified health plan at full cost effective January 1, 2016?

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The record reflects that you updated your NYSOH account on December 11, 2015. At that time, you contacted a representative with NYSOH for assistance in completing the application. You advised the representative that your estimated income was \$89,000.00. The record reflects that the NYSOH representative input \$890,000.00 as your household income in error. As a result of this error, you and your spouse were found eligible to purchase a qualified health plan at full cost and ineligible for the Essential Plan.

As such, that portion of the December 12, 2015 notice of eligibility redetermination finding in part that you and your spouse were eligible to purchase a qualified health plan at full cost was based on an incorrectly entered household income amount by a NYSOH representative. Therefore, that portion of the December 12, 2015 notice of eligibility redetermination must be **RESCINDED** to the extent that it relates to your and your spouse's eligibility.

The second issue under review is whether NYSOH properly determined that your and your spouse's enrollment in an Essential Plan was effective April 1, 2016, rather than January 1, 2016.

On October 23, 2015, NYSOH issued a renewal notice stating in relevant part that, based on federal and state data sources, your household income was between \$50,688.00 and \$73,460.00 and this qualified you and your spouse for the Essential Plan. NYSOH enrolled you in an Essential Plan with an effective start date of January 1, 2016.

Since the record now reflects that you and your spouse were erroneously disenrolled from your Essential Plan effective January 1, 2016, based on NYSOH representative inputting your estimated income as \$890,000.00 and your 2015 U.S. Personal Income Tax Return shows an adjusted gross income of \$61,303.00, it is concluded that there is sufficient evidence that your and your spouse's Essential Plan enrollment should have started and continued without interruption as of January 1, 2016.

Therefore, the March 15, 2016 enrollment notice is **MODIFIED** to state that your and your spouse's Essential Plan coverage was effective as of January 1, 2016.

Furthermore, your case is **RETURNED** to NYSOH to effectuate the changes to your and your spouse's eligibility noted above and, if applicable, to facilitate a reimbursement of premiums paid for the silver-level qualified health plan coverage during the months of January 2016, February 2016 and March 2016.

Decision

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).

The December 12, 2015 eligibility determination notice is **RESCINDED** as it relates to your and your spouse's eligibility for financial assistance and the household income amount relied upon to make that redetermination.

The March 15, 2016 enrollment notice is **MODIFIED** to state that your and your spouse's Essential Plan coverage was effective as of January 1, 2016.

All other notices issued within this time frame are superseded by this Decision.

Your case is **RETURNED** to effectuate the changes to your and your spouse's eligibility noted above and, if applicable, to facilitate a reimbursement of premiums paid for the silver-level qualified health plan for the months of January 2016, February 2016 and March 2016.

Effective Date of this Decision: December 8, 2016

How this Decision Affects Your Eligibility

The effective date of your and your spouse's Essential Health Plan is January 1, 2016.

Your case is being sent back to NYSOH to change the start date of your Essential Plan and to assist, if applicable, in reimbursement of premiums you paid to the silver-level qualified health plan you and your spouse were enrolled in for the months of January 2016, February 2016 and March 2016.

You will be responsible for the monthly premiums owed to the Essential Plan for you and your spouse for those three months.

There will likely be charge backs for any medical bills paid by the silver-level qualified health plan that you will have to have resubmitted to your Essential Plan.

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.

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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 December 12, 2015 eligibility determination notice is **RESCINDED** as it relates to your and your spouse's eligibility for financial assistance and the household income amount relied upon to make that redetermination.

The March 15, 2016 enrollment notice is **MODIFIED** to state that your and your spouse's Essential Plan coverage was effective as of January 1, 2016.

All other notices issued within this time frame are superseded by this decision.

Your case is **RETURNED** to effectuate the changes to your and your spouse's eligibility noted above and, if applicable, to facilitate a reimbursement of premiums paid for the silver-level qualified health plan for the months of January 2016, February 2016 and March 2016.

The effective date of your and your spouse's Essential Health Plan is January 1, 2016.

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Your case is being sent back to NYSOH to change the start date of your Essential Plan and to assist, if applicable, in reimbursement of premiums you paid to the silver-level qualified health plan you and your spouse were enrolled in for the months of January 2016, February 2016 and March 2016.

You will be responsible for the monthly premiums owed to the Essential Plan for you and your spouse for those three months.

There will likely be charge backs for any medical bills paid by the silver-level qualified health plan that you will have to have resubmitted to your Essential Plan.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

