



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

Notice of Decision

Decision Date: November 23, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009147

[REDACTED]

Dear [REDACTED]

On November 17, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 26, 2016 notice of eligibility determination and April 26, 2016 notice of enrollment confirmation.

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

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009147



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 eligibility for financial assistance began June 1, 2016?

Procedural History

On October 25, 2015, NYSOH issued a notice that it was time to renew your and your spouse's 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 and your spouse's health coverage, and that you needed to update your account by December 15, 2015 or you and your spouse the financial assistance you were receiving may end.

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

On December 21, 2015, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to enroll in a qualified health plan at full cost through NYSOH effective January 1, 2016.

On December 22, 2015, you and your spouse were re-enrolled into the same Silver level qualified health plan without financial assistance, effective January 1, 2016.

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On April 25, 2016, NYSOH received your updated application for health insurance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that you and your spouse were eligible to enroll in the Essential Plan, effective June 1, 2016.

Also on April 25, 2016 you spoke to NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as it found that your and your spouse's eligibility for financial assistance did not begin January 1, 2016.

On April 26, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were eligible to enroll in the Essential Plan, effective June 1, 2016.

Also on April 26, 2016, NYSOH issued a notice of enrollment, based on your plan selection on April 25, 2016, stating that you were enrolled in an Essential Plan, and that your plan would start June 1, 2016.

On November 17, 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) You testified that you are not sure whether you had selected to receive electronic alerts or notices via regular mail from NYSOH.
- 2) Your account reflects that you receive all of your notices from NYSOH by electronic mail.
- 3) You testified that you have never changed the preferences as to how you receive notices from NYSOH.
- 4) You testified that you did not receive any electronic alerts regarding any renewal notice in your NYSOH account telling you that you needed to update your application in order to renew your eligibility.
- 5) You testified that you did not receive any renewal notice from NYSOH via regular mail telling you that you needed to update your application in order to renew your eligibility.
- 6) You testified that you continued to make payments to your Silver level qualified health plan.

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- 7) You testified that you did not realize that your advance premium tax credits were not being applied to your premiums until April of 2016 when you received a bill for over \$3,000.00 from your health plan.
- 8) The record reflects that on April 25, 2016 NYSOH received your updated application for health insurance.
- 9) You testified, and the record reflects, that you enrolled yourself and your spouse in an Essential Plan on April 25, 2016.
- 10) You testified that you wanted your enrollment in a plan with financial assistance to begin on January 1, 2016 because you did not know that you needed to update your account until April 2016.
- 11) You testified that you and your spouse still plan on filing your 2016 tax returned as married filing jointly, that you and your spouse will claim no dependents, and that your and your spouse's annual expected income for your household for 2016 is still \$27,348.00.

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.

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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 you and your spouse's enrollment in the Essential Plan was effective June 1, 2016.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual's projected eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On October 25, 2015, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you and your spouse qualified for financial help with paying for your and your spouse's health coverage. You were asked to update the information in your account by

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December 15, 2015 or the financial help you and your spouse were receiving might end.

Because there was no timely response to this notice, your eligibility for financial assistance was terminated effective December 31, 2015.

However, the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the renewal notice, which directed you to update the information in your NYSOH account. There is no evidence in your account documenting that any email alert was sent to you regarding the renewal notice or the need to renew your application.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account.

You first renewed your and your spouse's eligibility for financial assistance through NYSOH for 2016 on April 25, 2016, and therefore we must assume that this 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 April 26, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, you and your spouse are eligible to enroll in an Essential Plan, and the April 26, 2016 notice of enrollment confirmation is MODIFIED to state that your enrollment in your Essential Plan is effective January 1, 2016.

Decision

The April 26, 2016 notice of eligibility determination is AFFIRMED in so far as it found you eligible for the Essential Plan, and MODIFIED to state that, effective January 1, 2016, you and your spouse are eligible to enroll in an Essential Plan.

The April 26, 2016 notice of enrollment confirmation is MODIFIED to state that your and your spouse's enrollment in your Essential Plan was effective January 1, 2016.

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

Effective Date of this Decision: November 23, 2016

How this Decision Affects Your Eligibility

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You and your spouse are eligible for the Essential Plan 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:
NY State of Health Appeals
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The April 26, 2016 notice of eligibility determination is **AFFIRMED** in so far as it found you eligible for the Essential Plan, and **MODIFIED** to stat that, effective January 1, 2016 you and your spouse are eligible to enroll in an Essential Plan.

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The April 26, 2016 notice of enrollment confirmation is MODIFIED to state that your and your spouse's enrollment in your essential plan was effective January 1, 2016.

You and your spouse are eligible for the Essential Plan effective January 1, 2016.

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

Legal Authority

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

A Copy of this Decision Has Been Provided To:

