



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

Notice of Decision

Decision Date: November 14, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009230

[REDACTED]

Dear [REDACTED]

On November 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 22, 2016 enrollment confirmation 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.

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: November 14, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009230

[REDACTED]

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 enrollment in your Essential Plan was effective June 1, 2016?

Procedural History

On October 25, 2015, NYSOH issued a renewal notice, stating that it was time to renew your health insurance for the upcoming coverage year. That notice stated that you could not be enrolled in your current health plan for the next coverage year, and that you needed to select a different health plan between November 16, 2015 and December 15, 2015 to continue your coverage.

You updated your application for health insurance several times on November 16, 2015.

On November 22, 2015, NYSOH issued a notice of eligibility determination, based on your November 16, 2015 update, stating that you were no longer eligible for Medicaid, however you will continue to be covered by Medicaid until December 31, 2016. That notice also stated that you must come back between November 16, 2016 and December 16, 2016 to update your information. That eligibility was effective January 1, 2016.

Also, on November 22, 2015, NYSOH issued a disenrollment notice, based on your November 16, 2015 updated application, stating that your Medicaid Managed Care plan would end effective December 31, 2015. That notice also

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stated that, if you selected a new plan for the upcoming coverage year, a separate notice with your new coverage information would be sent shortly.

On November 25, 2015, NYSOH issued an enrollment confirmation notice that stated you had selected a Medicaid Managed Care plan, and that the effective date of that plan was January 1, 2016.

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

On December 20, 2015, NYSOH issued an eligibility redetermination notice stating that you were eligible to enroll in an Essential Plan, effective January 1, 2016. That notice also stated you no longer qualify for Medicaid as of December 31, 2015 and that you must pick a health plan.

On April 22, 2016, you selected a health plan.

On April 23, 2016, NYSOH issued an enrollment confirmation notice that stated you had selected an Essential Plan, and that the effective date of that plan was June 1, 2016.

On April 27, 2016, you spoke to NYSOH's Account Review Unit and appealed the enrollment confirmation notice insofar as it began your Essential Plan on June 1, 2016, and not January 1, 2016.

On November 7, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You appeared with your mother, who acted as representative and a witness on your behalf. 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, you updated your application for health insurance several times on November 16, 2015.
- 2) You testified that when you renewed your health insurance for the 2016 year, you incorrectly stated your income in the application. That amount was \$16,000.00.
- 3) Your mother testified that because your initial application stated you earned \$16,000.00 for the year, when you tried to update your income

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on the application, there was a “glitch” in the system, which would not allow you to get out of Medicaid.

- 4) According to your NYSOH account, you were enrolled in a Medicaid Managed Care plan on November 16, 2015, with a January 1, 2016 enrollment start date.
- 5) You testified that your actual income was \$18,000.00 for the 2015 tax year and you believed your income will be \$22,500.00 for the 2016 tax year, but it varies because you are a seasonal employee so it may vary.
- 6) On December 19, 2015, NYSOH reran your eligibility and your Medicaid coverage was terminated effective December 31, 2015.
- 7) You testified that you receive all of your notices from NYSOH via electronic mail.
- 8) You testified that you did not receive any email alerts informing you that the December 19 or 20, 2015 notices were in your NYSOH account and needed to be reviewed. Those notices stated respectively that your Medicaid coverage was to terminate December 31, 2015 and that you needed to select an Essential Plan in order to begin coverage on January 1, 2016. You also testified that you did not receive any updated notice by regular mail.
- 9) You further testified that you used your Medicaid Managed Care insurance cards between January 2016 and April 2016 with no problems until you tried to use them for a prescription in April 2016. That is when you found out you did not have health insurance and needed to enroll in an Essential Plan.
- 10) Your mother testified that you were told that the medical bills already paid on your behalf by your Medicaid Managed Care plan are going to be charged back to you.
- 11) Your mother testified that that the bills totaled \$281.67 at the Medicaid rate and will be much higher if billed to you.
- 12) You testified that you understand that you will be responsible for any Essential Plan monthly premiums and co-pays should a decision be rendered in your favor. You still wished to proceed.
- 13) You testified that you are also concerned about being exposed to an IRS tax penalty due to your gap in coverage in 2016.

- 14) The record reflects that on April 22, 2016, NYSOH received your plan selection for health insurance and your enrollment start date was June 1, 2016.
- 15) You testified that you are seeking to have your Essential Plan coverage begin on January 1, 2016.

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, Essential Plan, 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.

Medicaid Continuous Coverage

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as "continuous coverage" and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (NY Social Services Law § 366(4)(c)).

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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)).

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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your enrollment in your Essential Plan was effective June 1, 2016.

Generally, NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH's October 25, 2015 renewal notice stated that they could not enroll you in your current health plan for the next coverage year, and that you needed to select a different health plan between November 16, 2015 and December 15, 2015 to continue your coverage.

You updated your application for health insurance several times on November 16, 2015. When you initially applied that day, you were determined eligible for Medicaid, based on an income of \$16,000.00. Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid continuous coverage even if they lose eligibility because of any updates they make to their NYSOH account.

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As a result, when you updated the income information on your account again on November 16, 2015, you were unable to be taken out of Medicaid continuous coverage. Therefore, you were enrolled a Medicaid Managed Care plan that day and believed you had coverage continuing as of January 1, 2016. On November 25, 2015, an enrollment confirmation notice was issued that stated that you had selected a Medicaid Managed Care plan, and that the effective start date of that plan was January 1, 2016.

However, on December 19, 2015, NYSOH reran your eligibility based on the updated income information you had provided, redetermined your eligibility and found you eligible to enroll in the Essential Plan, and issued a cancellation notice stating that your Medicaid Managed Care plan will end effective January 1, 2016. That notice also stated this was because you were no longer eligible to be enrolled in your current health insurance.

On December 20, 2015, NYSOH issued an eligibility redetermination notice stating that you were eligible to enroll in an Essential Plan, effective January 1, 2016. That notice also stated you no longer qualify for Medicaid as of December 31, 2015 and that you must pick a health plan.

However, according to your NYSOH account, you elected to receive alerts regarding notices from NYSOH electronically; that is, via email. You credibly testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that your Medicaid Managed Care plan coverage was to terminate and that you needed to select an Essential Plan in order to begin coverage on January 1, 2016. In fact, you credibly testified that you used your Medicaid Managed Care insurance cards between January 2016 and April 2016 with no problems until you tried to use them for a prescription in April 2016. You further testified it was not until that time that you first learned you did not have health insurance and needed to enroll in a different plan. 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 regarding a change in your eligibility and the need to select an Essential Plan.

According to your NYSOH account, you first enrolled in an Essential Plan through NYSOH for the 2016 coverage year on April 22, 2016 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 eligibility redetermination notice.

Had the information been submitted before the deadline to select an Essential Plan for coverage to begin the first of the year, your enrollment would have begun on January 1, 2016. Therefore, the April 23, 2016 enrollment confirmation notice is MODIFIED to state that your enrollment in your Essential Plan was effective January 1, 2016.

Your case is RETURNED to NYSOH to effectuate this change and to notify you accordingly.

Since your Medicaid Managed Care plan and your Essential Plan are both with the same insurance carrier, the carrier can make any adjustments to the claims already processed through your Medicaid Managed Care plan from January 1, 2016 through April 30, 2016.

Since this decision directs that your Essential Plan coverage be made effective January 1, 2016, you should have coverage throughout the requisite number of months to avoid exposure to an IRS tax penalty for not having health insurance coverage in 2016.

Decision

The April 23, 2016 notice of enrollment confirmation is MODIFIED to state that your enrollment in your Essential Plan was effective January 1, 2016.

Your case is RETURNED to NYSOH to effectuate this change and to notify you accordingly.

Effective Date of this Decision: November 14, 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 facilitate your enrollment in your Essential Plan as of January 1, 2016.

You will be responsible for any premium payments and co-payments.

Since your Medicaid Managed Care plan and your Essential Plan are both with the same insurance carrier, the carrier can make any adjustments to the claims already processed through your Medicaid Managed Care plan from January 1, 2016 through April 30, 2016.

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Since this Decision directs that your Essential Plan coverage be made effective January 1, 2016, you should have coverage throughout the requisite number of months to avoid exposure to an IRS tax penalty for not having health insurance coverage in 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
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The April 23, 2016 notice of enrollment confirmation is MODIFIED to state that your enrollment in your Essential Plan was effective January 1, 2016.

Your case is RETURNED to NYSOH to effectuate this change and to notify you accordingly.

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

Your case is being sent back to NYSOH to facilitate your enrollment in your Essential Plan as of January 1, 2016.

You will be responsible for any premium payments and co-payments.

Since your Medicaid Managed Care plan and your Essential Plan are both with the same insurance carrier, the carrier can make any adjustments to the claims already processed through your Medicaid Managed Care plan from January 1, 2016 through April 30, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

