



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

Notice of Decision

Decision Date: November 30, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009336

[REDACTED]

Dear [REDACTED],

On October 28, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 16, 2016 eligibility determination notice and March 16, 2016 disenrollment 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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NY State of Health Account ID: [REDACTED]
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Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly disenroll you and your spouse from your Essential Plan effective March 31, 2016?

Procedural History

On December 4, 2015, NYSOH issued a notice of eligibility determination, based on your December 3, 2015 application, stating that you, your spouse, and your son were eligible to enroll in the Essential Plan, effective January 1, 2016. This determination was based on your attested household income of \$32,040.00.

Also on December 4, 2015, NYSOH issued a notice of enrollment, based on your plan selection on December 3, 2015, stating that your household was enrolled in an Essential Plan with Dental and Vision, and that your plan would start January 1, 2016.

On March 15, 2016, NYSOH received your updated application for financial assistance.

On March 16, 2016, an eligibility determination notice was issued finding you and your spouse newly eligible to receive advance premium tax credits up to \$615.00 per month, as well as cost-sharing reductions effective April 1, 2016.

Also on March 16, 2016, a disenrollment notice was issued terminating your household's enrollment in your Essential Plan with Dental and Vision effective March 31, 2016.

On April 5, 2016, NYSOH issued an eligibility determination based on your updated application on April 4, 2016, finding you and your spouse eligible to enroll in the Essential Plan starting May 1, 2016.

Also on April 5, 2016, an enrollment confirmation notice was issued confirming you and your spouse's enrollment in an Essential Plan effective May 1, 2016, without any selection of a Vision and Dental plan.

On May 2, 2016, you spoke to NYSOH's Account Review Unit and appealed the disenrollment from you and your spouse's health plan, and the start date of your re-enrollment in the Essential Plan insofar as it did not begin April 1, 2016.

On October 28, 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 submitted an application to NYSOH for financial assistance on December 3, 2015.
- 2) You are seeking a backdate in coverage in your Essential Plan to April 1, 2016 for you and your spouse.
- 3) You testified that you had contacted NYSOH on March 15, 2016, to terminate your dental coverage. You also informed a NYSOH agent that your son no longer needed to be enrolled in the plan as he had coverage under Medicaid.
- 4) You testified that you were told by a NYSOH representative that if you dropped your son from his coverage under your health plan, you would no longer qualify for the Essential Plan.
- 5) You testified that you had decided to cancel your attempt to change your health plan and leave your enrollment the way it was due to what the NYSOH representative had told you.

- 6) The record reflects your entire household was disenrolled from your Essential Plan effective March 31, 2016, due to the change made to your application by the NYSOH representative.
- 7) You testified, and the record reflects, that you then contacted NYSOH on April 4, 2016, after you had tried to fill a prescription for your spouse and were denied. You re-enrolled in an Essential Plan that day, with coverage effective May 1, 2016.
- 8) The events tab in your NYSOH account show that on March 15, 2016 an NYSOH representative deleted your household's enrollment in the Essential Plan.
- 9) You testified you did not receive any notices from NYSOH letting your know that you had been disenrolled from your Essential Plan effective March 31, 2016. You also did not receive any disenrollment notice by regular mail.
- 10) You testified you paid your April, 2016 premium for the Essential Plan.
- 11) Your application supports you will be claiming your son as a dependent on your 2015 tax return.
- 12) A review of the call on March 15, 2016, shows that you had asked the NYSOH representative to keep your enrollment in the Essential Plan the way it was and to not make any changes after you had gone through what your new eligibility would be should your son be dropped from your application.

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 \$20,090.00 for a three-person household (80 Fed. Reg. 3236, 3237).

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 issue under review is whether NYSOH properly disenrolled you and your spouse from your Essential Plan effective March 31, 2016.

You submitted an NYSOH application for you, your spouse and your son on December 3, 2015. The application that was submitted on December 3, 2015 listed an annual household income of \$32,040.00 and was based on a three person household because you expect to file your 2015 income taxes as married filing jointly and will claim your son as a dependent on that tax return. As a result

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of this application, you and your spouse were found eligible for the Essential Plan as of January 1, 2016.

You then contacted a NYSOH representative on March 15, 2016, to terminate your dental coverage for your family. During the call you explained to the representative your son no longer needed to be enrolled in the plan as he had coverage under Medicaid. A review of the call on March 15, 2016, shows that you had asked the NYSOH representative to keep your enrollment in the Essential Plan the way it was and to not make any changes after you had gone through what your new eligibility would be like should your son be dropped from your application.

However, the events tab in your NYSOH account show that on March 15, 2016 an NYSOH representative removed your son from your household and deleted you and your spouse's enrollment in the Essential Plan.

On April 4, 2016, an NYSOH representative re-enrolled you and your spouse in the same Essential Plan effective May 1, 2016, and included your child on your application as a household member.

You credibly testified, and a review of the phone recording supports, that you did not authorize the NYSOH representative to disenroll you, and your spouse from your Essential Plan during the March 15, 2016 call. It was only your intention to cancel your coverage under your dental plan, and to alert NYSOH that your child was now eligible for Medicaid, not that he was no longer a member of your household.

Therefore, the March 16, 2016, eligibility determination and disenrollment notice stating that you and your spouse were no longer eligible for the Essential Plan and your enrollment would be terminated effective March 31, 2016, are RESCINDED.

Your case is RETURNED to NYSOH to reinstate you and your spouse's coverage in your Essential Plan for the month of April, 2016.

Decision

The March 16, 2016, eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate you and your spouse's coverage in your Essential Plan for the month of April, 2016.

Effective Date of this Decision: November 30, 2016

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How this Decision Affects Your Eligibility

You and your spouse should not have been removed from the Essential Plan for the month of April 2016.

Your case is being returned to NYSOH to reinstate you and your spouse into coverage for April 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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Summary

The March 16, 2016, eligibility determination and disenrollment notices are **RESCINDED**.

You and your spouse should not have been removed from the Essential Plan for the month of April 2016.

Your case is **RETURNED** to NYSOH to reinstate you and your spouse's coverage in your Essential Plan for the month of April, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

