



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

Notice of Decision

Decision Date: December 23, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009353

[REDACTED]

Dear [REDACTED],

On November 15, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 30, 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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Decision

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NY State of Health Account ID: [REDACTED]
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Issues

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

Did New York State of Health (NYSOH) properly determine that your eligibility for and enrollment in the Essential Plan ended effective April 30, 2016?

Did NYSOH properly determine that your re-enrollment in an Essential Plan was effective June 1, 2016?

Procedural History

On April 28, 2015, NYSOH issued an eligibility determination notice that stated you were eligible for Medicaid effective April 1, 2016.

Also on April 28, 2015, NYSOH issued an enrollment confirmation notice confirming your enrollment in a Medicaid Managed Care plan, effective June 1, 2015.

On February 8, 2016, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that based on information from federal and state sources, you no longer qualified for health care coverage under Medicaid, Child Health Plus, the Essential Plan or for tax credits or cost sharing reductions. However you did qualify to buy a health plan at full cost through NYSOH. This eligibility was effective April 1, 2016.

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).

On February 29, 2016, NYSOH received your updated application for health insurance.

On March 1, 2016, NYSOH issued a notice of eligibility redetermination, based on your February 29, 2016 updated application, stating that you were eligible to enroll in the Essential Plan, with a \$20.00 monthly premium, effective April 1, 2016. This eligibility was based on income of \$18,200.00 you reported in that application.

Also on March 1, 2016, NYSOH issued an enrollment confirmation notice, based on your plan selection made on February 29, 2016, stating that you were enrolled in an Essential Plan with Vision and Dental, with a \$46.28 monthly premium beginning April 1, 2016.

Also on March 1, 2016, NYSOH issued a disenrollment notice stating that your Medicaid Managed Care plan would end effective March 31, 2016.

On April 15, 2016, NYSOH issued a notice that stated that your application for health insurance had been reviewed, but more information was needed to make a determination. You were requested to submit income documentation by April 30, 2016 to confirm the information in your application was accurate.

Also on April 15, 2016, NYSOH issued a disenrollment notice stating that your Essential Plan coverage would end effective April 30, 2016.

On April 29, 2016, your NYSOH account was updated.

On April 30, 2016, NYSOH issued a notice of eligibility redetermination stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective June 1, 2016.

Also on April 30, 2016, NYSOH issued an enrollment confirmation notice, based on your plan selection of April 29, 2016, stating that you were enrolled in an Essential Plan with Vision and Dental, with a \$46.28 monthly premium, beginning June 1, 2016.

On May 2, 2016, you spoke to NYSOH's Account Review Unit and appealed the April 15, 2016 disenrollment notice insofar as it ended your eligibility for and enrollment in the Essential Plan for the month of May 2016.

On November 15, 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 were found eligible for Medicaid, effective April 1, 2015, and were enrolled in a Medicaid Managed Care plan.
- 2) According to your NYSOH account and your testimony, you receive your notices by regular mail.
- 3) On February 8, 2016, NYSOH issued a notice that it was time to renew your health insurance. That notice was mailed to the address listed in your NYSOH account. That notice was returned by the post office with a label stating "RETURN TO SENDER [REDACTED] TEMPORARILY AWAY RETURN TO SENDER". NYSOH received this envelope and the enclosed notice and marked the envelope as "RETURNED MAIL" on February 16, 2016.
- 4) The record reflects that on February 29, 2016, NYSOH received your updated application for health insurance and a preliminary eligibility determination was prepared stating you were eligible for the Essential Plan effective April 1, 2016. You selected an Essential Plan on that date with an enrollment start date of April 1, 2016.
- 5) You testified that you received an invoice from your Essential Plan for \$46.28 for the premium due for coverage beginning on April 1, 2016 and that you paid this bill.
- 6) According to your NYSOH account, on March 1, 2016, NYSOH issued an enrollment confirmation notice stating you were enrolled in Essential Plan 1 as of April 1, 2016, and a disenrollment notice stating that your Medicaid Managed Care plan would end March 31, 2016. Those notices were mailed to the address listed in your NYSOH account. Both notices were returned by the post office with a label stating "RETURN TO SENDER [REDACTED] TEMPORARILY AWAY RETURN TO SENDER". NYSOH received these envelopes and notices and marked them as "RETURNED MAIL" on March 7, 2016.
- 7) According to your NYSOH account, also on March 1, 2016, NYSOH issued an eligibility redetermination notice stating you were eligible for the Essential Plan effective April 1, 2016. That notice was mailed to the address listed in your NYSOH account. That notice was returned to NYSOH by the post office with a label stating "RETURN TO SENDER [REDACTED] TEMPORARILY AWAY RETURN TO SENDER". NYSOH received this envelope and marked it as "RETURNED MAIL" on March 9, 2016.

- 8) According to your NYSOH account, on April 14, 2016, a NYSOH representative noted in your account that the notices sent on March 1, 2016 had been returned by the post office with markings indicating you were temporarily away and there was no forwarding address.
- 9) According to your NYSOH account and your testimony, on April 14, 2016, you updated your account with new income information based upon a raise you received at your employment.
- 10) According to your NYSOH account, on April 14, 2016, as a result of your account being marked as having an invalid address, the system deleted your Essential Plan enrollment, effective April 30, 2016.
- 11) According to your NYSOH account, on April 15, 2016, the system generated two separate notices based upon the April 14, 2016 updates to your account. One notice, dated April 15, 2016, stated your April 14, 2016 application had been reviewed, but more information was needed to confirm the information contained in that application. The second system generated notice stated you were disenrolled from your Essential Plan effective April 30, 2016.
- 12) You testified that your hourly wage increased in April 2016 from \$14.00/hr to \$16.00/hr, you work a 40 hour week and are paid weekly. According to your NYSOH account your annual income is \$23,400.00 and you testified this amount was correct.
- 13) According to your NYSOH account and your testimony, you submitted proof of income on April 29, 2016 to reflect an annual income of \$23,400.00 and you were redetermined eligible for the Essential Plan, effective June 1, 2016.
- 14) According to your NYSOH account and your testimony, you selected and enrolled in an Essential Plan on April 29, 2016.
- 15) You testified that, when you spoke to NYSOH representatives on April 29, 2016, you were told you would not have a gap in Essential Plan coverage.
- 16) According to your NYSOH account and your testimony, your mailing address has never changed.
- 17) According to your NYSOH account and your testimony, you are married, will file taxes as single and will claim no dependents.
- 18) You testified that, when you went to the pharmacy on May 2, 2016, you were informed by the clerk there that you did not have health insurance coverage.

- 19) You testified that you are seeking to backdate the start of your Essential Plan coverage to May 1, 2016 so there is no gap in coverage and so you can be reimbursed for the out-of-pocket medical expenses you incurred in May, 2016.

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

Applicable Law and Regulations

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow 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 through data sources, they must also attempt to resolve the inconsistency by giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR § 155.315(f)).

NYSOH-Initiated Termination of Coverage

NYSOH may initiate termination of an enrollee's enrollment in a qualified health plan (QHP) through NYSOH and must permit a QHP issuer to terminate such coverage or enrollment when the enrollee is no longer eligible for coverage in a QHP through NYSOH, including when an enrollee obtains minimum essential coverage, with appropriate notice to the enrollee (45 CFR § 155.430(b)(2)(i), (d)).

For NYSOH-initiated terminations where the enrollee is no longer eligible for coverage in a QHP through NYSOH, the last day of enrollment is the last day of eligibility, as described in 45 CFR § 155.330(f) (45 CFR § 155.430(d)(3)).

Notice of the effective dates for termination of coverage or enrollment must be reasonable, which is defined as at least fourteen days before the requested date of termination (45 CFR § 155.430(d)(1)(i)-(ii)).

Effective dates of termination of coverage or enrollment must be implemented by NYSOH as follows:

- 1) When resulting from a redetermination, the termination date is the first day of the month following the date of the written notice, which must be at least fourteen days before the requested date of termination to be considered timely;
or

- 2) When resulting from an appeal decision, on the date specified in the appeal decision; or
- 3) When affecting enrollment or premiums only, on the first day of the month following the date on which the Marketplace is notified on the change.

(45 CFR § 155.330(f)(1)(i)-(iii)).

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 your eligibility for and enrollment in the Essential Plan ended effective April 30, 2016.

The record reflects that the notice to renew, dated February 8, 2016, and the eligibility redetermination notice, the Essential Plan enrollment confirmation notice and the disenrollment from Medicaid Managed Care plan notices, dated March 1, 2016, were all returned by the post office. Your NYSOH account shows that you elected to receive all notices by regular mail. While the record shows that the address listed in your NYSOH account has not changed, those four notices were returned by the post office with notation that you were temporarily away and there was no forwarding address. Failure to maintain a correct mailing address is proper grounds for termination of health coverage by NYSOH with proper notice.

NYSOH issued a notice on April 15, 2016 to the address listed in your account that your Essential Plan coverage would end on April 30, 2016. Since the

disenrollment notice was sent at least fourteen days before the effective date of the termination of coverage, it is considered to be reasonable notice.

Therefore, the April 15, 2016 disenrollment notice stating that your eligibility for and enrollment in the Essential Plan ended April 30, 2016 is correct and must be AFFIRMED.

The second issue under review is whether NYSOH properly determine that your re-enrollment in an Essential Plan was effective June 1, 2016.

You testified, and the record indicates, that you updated your NYSOH application on April 29, 2016. That application for financial assistance shows an expected annual income of \$23,400.00 and you testified this amount was correct.

Based upon this April 29, 2016 update information, NYSOH made a preliminary eligibility determination notice and found you eligible for the Essential Plan effective June 1, 2016. You enrolled into a plan that same day.

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 29, 2016, you selected an Essential Plan, so your enrollment properly took effect on the first day of the second month following April 2016; that is, on June 1, 2016.

Therefore, the April 30, 2016 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective June 1, 2016, is correct and must be AFFIRMED.

Decision

The April 15, 2016 disenrollment notice is AFFIRMED.

The April 30, 2016 eligibility determination is AFFIRMED.

The April 30, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: December 23, 2016

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You were enrolled in the Essential Plan from April 1, 2016 to April 30, 2016.

The next effective date of your Essential Health Plan is June 1, 2016.

You did not have health insurance through NYSOH during the month of May 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

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).

- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The April 15, 2016 disenrollment notice is AFFIRMED.

The April 30, 2016 eligibility determination is AFFIRMED.

The April 30, 2016 enrollment confirmation notice is AFFIRMED.

This decision does not change your eligibility.

You were enrolled in the Essential Plan from April 1, 2016 to April 30, 2016.

The next effective date of your Essential Health Plan is June 1, 2016.

You did not have health insurance through NYSOH during the month of May 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

