



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

## Notice of Decision

Decision Date: November 25, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009377

[REDACTED]

Dear [REDACTED]

On November 17, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 5, 2016 eligibility determination notice, February 5, 2016 and March 29, 2016 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 NY State of Health 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.

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## Decision

Decision Date: November 25, 2016

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 NY State of Health (NYSOH) properly determine that you were eligible to enroll in the Essential Plan effective March 1, 2016?

Did NYSOH properly determine that you were not eligible for Medicaid, as of January 31, 2016?

Did NYSOH properly determine that your enrollment in the Essential Plan was effective March 1, 2016?

Did NYSOH properly determine that your reenrollment in the Essential Plan was effective May 1, 2016?

## Procedural History

On December 23, 2015, 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, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by January 15, 2016 or you might lose the financial assistance you were currently receiving.

No updates were made to your account by January 15, 2016.

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On January 17, 2016, NYSOH issued an eligibility determination notice stating that you were not qualified to enroll through NYSOH because you had not responded to the renewal notice and had not completed your renewal within the required time frame. Your eligibility ended January 31, 2016.

On February 4, 2016, NYSOH received your updated application for health insurance.

On February 5, 2016, NYSOH issued an eligibility determination based on the February 4, 2016 application, stating that you were eligible to enroll in the Essential Plan, effective March 1, 2016.

Also on February 5, NYSOH issued an enrollment notice confirming your enrollment in an Essential Plan, effective March 1, 2016.

On March 23, 2016, NYSOH issued a cancellation notice advising that your enrollment in the Essential Plan was cancelled, effective March 1, 2016, because you had failed to make a premium payment.

On March 29, 2016, NYSOH issued an enrollment notice confirming your enrollment in the Essential Plan, effective May 1, 2016.

On May 3, 2016 you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary determination insofar as you were not found eligible for and enrolled in, the Essential Plan effective February 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 received your notices from NYSOH by electronic mail and regular mail, however, your NYSOH account indicates that you receive notices from NYSOH by regular mail.
- 2) You testified that you did not receive the December 23, 2015 renewal notice from NYSOH telling you that you needed to update the information in your NYSOH account to ensure that your coverage would not be interrupted and that your financial assistance would continue.

- 3) You testified that you did not know you needed to renew your application until February 2016, when you went to pick up a prescription and were told you had no coverage.
- 4) You submitted an application to NYSOH for financial assistance on February 4, 2016.
- 5) You testified that you do not expect to file taxes for 2016. You testified that you are widowed. You testified that you have no dependents.
- 6) The application that was submitted on February 4, 2016, which requested financial assistance, listed annual expected household income for 2016 of \$20,580.00, consisting of Social Security benefits. You testified that this amount remains correct.
- 7) You testified that your monthly income is \$1,715.00 and is the same every month.
- 8) Your application states that you live in Monroe County.
- 9) The record reflects, that you enrolled in an Essential Plan on February 4, 2016.
- 10) You testified that you wanted your enrollment to begin on February 1, 2016 as you have outstanding bills for that month.
- 11) You testified that you also did not receive the March 23, 2016 cancellation notice advising you that your enrollment in the Essential Plan was cancelled effective March 1, 2016.
- 12) The record reflects that you were cancelled from the Essential Plan effective March 1, 2016 for non-payment of premiums.
- 13) Your NYSOH account reflects that you reenrolled in an Essential Plan on March 28, 2016, effective May 1, 2016.
- 14) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.

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

## **Applicable Law and Regulations**

### Essential Plan

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).

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 § 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)).

### Medicaid

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR

§ 435.4). On the date of your application, that was the 2016 FPL, which is \$11,880.00 for a one-person household (81 Fed. Reg. 4036).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

### 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 information and 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.

### 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 were eligible for the Essential Plan, effective March 1, 2016.

The application that was submitted on February 4, 2016 listed an annual household income of \$20,580.00 and the eligibility determination relied upon that information.

You are in a one-person household. You do not expect to file your 2016 income taxes, however, you are single and have no dependents.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,770.00 for a one-person household. Since an annual household income of \$20,580.00 is 174.85% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan.

The second issue is whether NYSOH properly determined that you were not eligible for Medicaid.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,880.00 for a one-person household. Since \$20,580.00 is 173.23% of the 2016 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the February 5, 2016 eligibility determination notice properly stated that, based on the information you provided, you were eligible for the Essential Plan, it was correct and is AFFIRMED.

The third issue is whether NYSOH properly determined that your enrollment in the Essential Plan was effective March 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

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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 December 23, 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 would qualify for financial help with paying for your health coverage. You were asked to update the information in your account by January 15, 2016 or the financial help you were receiving might end.

Because there was no timely response to this notice, your eligibility for financial assistance and your enrollment in a qualified health plan was terminated effective January 31, 2016.

You testified that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, the record reflects that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated in order to ensure your enrollment in your health plan and eligibility for financial assistance would continue.

The record indicates, that you updated your NYSOH application on February 4, 2016. As a result, you were found eligible for the Essential Plan as of March 1, 2016 and enrolled into a plan.

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 February 4, 2016, you selected an Essential Plan, so your enrollment properly took effect on the first day of the first month following February 4, 2016; that is, on March 1, 2016.

Therefore, the February 5, 2016 eligibility determination notice and enrollment confirmation notice stating that your enrollment in the Essential Plan was effective March 1, 2016, are correct and must be AFFIRMED.

The fourth issue is whether NYSOH properly determined that your reenrollment in the Essential Plan was effective May 1, 2016.

The record reflects that your enrollment in the Essential Plan was cancelled effective March 1, 2016 due to failure to pay your premium.

The record indicates that on March 28, 2016, you reenrolled in an Essential Plan.

On March 28, 2016, you selected an Essential Plan, so your enrollment properly took effect on the first day of the second month following March 28, 2016; that is, on May 1, 2016.

Therefore, the March, 29, 2016 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective May 1, 2016, is correct and must be AFFIRMED.

## **Decision**

The February 5, 2016 eligibility determination notice is AFFIRMED.

The February 5, 2016 enrollment confirmation notice is AFFIRMED.

The March 29, 2016 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** November 25, 2016

## **How this Decision Affects Your Eligibility**

You remain eligible for the Essential Plan.

You are not eligible for Medicaid.

Your enrollment in the Essential Plan properly began on March 1, 2016 with reenrollment on May 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.

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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 after 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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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The February 5, 2016 eligibility determination notice is AFFIRMED.

The February 5, 2016 enrollment confirmation notice is AFFIRMED.

The March 29, 2016 enrollment confirmation notice is AFFIRMED.

You remain eligible for the Essential Plan.

You are not eligible for Medicaid.

Your enrollment in the Essential Plan properly began on March 1, 2016 with reenrollment on May 1, 2016.

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**A Copy of this Decision Has Been Provided To:**

