



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

## Notice of Decision

Decision Date: January 17, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009555

[REDACTED]

On January 5, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 21, 2015 eligibility determination notice, April 26, 2016 eligibility determination notice, April 26, 2016 disenrollment notice, and the May 4, 2016 enrollment 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).

This page intentionally left blank.



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

## Decision

Decision Date: January 17, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009555

[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 reenrollment in a qualified health plan, without the application of advance payments of the premium tax credit, was effective as of January 1, 2016?

Did NYSOH properly determine that your enrollment in the Essential Plan was effective no earlier than June 1, 2016?

## Procedural History

On February 16, 2015, NYSOH issued an eligibility determination notice based on the information contained in the February 15, 2015 application. The notice stated that you were conditionally eligible to receive advance payments of the premium tax credit (APTC) of up to \$288.00 per month and, if you selected a silver-level plan, conditionally eligible for cost-sharing reductions (CSR), effective March 1, 2015.

Also, on February 16, 2015, NYSOH issued an enrollment notice confirming your selection of a qualified health plan (QHP) as of February 15, 2015. The premium rate for this plan, after giving effect to the maximum APTC, was \$307.06 per month. The notice confirmed that your coverage under this QHP would begin effective March 1, 2015.

On October 25, 2015, NY State of Health (NYSOH) issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice

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).

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 December 15, 2016 or you might lose the financial assistance you were currently receiving.

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

On December 21, 2015 NYSOH issued an eligibility determination notice stating that you were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You were, however, eligible to enroll in a QHP at full cost. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame. Your eligibility for financial assistance ended on December 31, 2015.

On December 24, 2015, NYSOH issued an enrollment notice confirming that you had been reenrolled in your QHP at a premium rate of \$649.56 per month, effective January 1, 2016.

On April 25, 2016, NYSOH received your updated application for health insurance.

On April 26, 2016, NYSOH issued an eligibility redetermination notice stating that you were eligible to enroll in the Essential Plan for a limited time. This eligibility was effective June 1, 2016. You were directed to produce documentation regarding your income by July 24, 2016, or your eligibility for insurance and/or financial assistance would end.

Also on April 26, 2016, NYSOH issued a disenrollment notice stating that your QHP coverage would end effective May 31, 2016.

On May 4, 2016, NYSOH issued a letter confirming your enrollment in an Essential Plan as of May 3, 2016. Your coverage under this plan was effective June 1, 2016.

On May 11, 2016 you spoke to NYSOH's Account Review Unit and appealed the December 21, 2015 eligibility determination notice insofar as you were reenrolled in your QHP at full cost, and appealed the May 4, 2016 enrollment notice as it began your enrollment in the Essential Plan on June 1, 2016, and not January 1, 2016.

On January 5, 2017, 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 support the following findings of fact:

- 1) You testified, and the record reflects, that you receive all of your notices from NYSOH by electronic mail.
- 2) 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.
- 3) You testified that you contacted a representative for your QHP upon receiving an invoice for coverage during January 2016, which reflected a nearly doubled premium rate. You further testified that the representative told you that this was a charge for two months of premiums, not the result of no APTC having been applied.
- 4) The record reflects that on April 25, 2016, NYSOH received your updated application for health insurance. As a result of this application, you were found eligible for the Essential Plan effective June 1, 2016.
- 5) You testified that you are seeking not only to have your Essential Plan coverage backdated to begin January 1, 2016, but also to have your QHP retroactively terminated to end January 1, 2016.
- 6) You testified that you believed that you paid approximately 3 months of premiums at the rate of \$649.56, and were seeking reimbursement of the these premium amounts.

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)).

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 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.

### 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 first issue under review is whether NYSOH properly determined that your reenrollment in a qualified health plan, with no financial assistance, was effective January 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).

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 qualify for financial help with paying for your health coverage. You were asked to update the information in your account by December 15, 2015 or the financial help you were receiving might end.

Because there was no timely response to this notice, your eligibility for financial assistance was terminated effective December 31, 2015. You were, however, reenrolled in that QHP at full cost, effective January 1, 2016.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive any 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, or that any notice was sent to you by regular mail.

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

Since the credible evidence of record reflects that you were not provided proper notice that you needed to update your account, the determination that you were no longer eligible for financial assistance was made in error and not supported by the record. Accordingly, the December 21, 2015 eligibility determination notice is **RESCINDED**.

You testified, and the record reflects, that you first renewed your 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, since based on the information contained in the April 25, 2016, you were found eligible for the Essential Plan for a limited time, we may reasonably infer that this information would have been provided to NYSOH as of the December 15, 2015 deadline referenced in the October 25, 2015 renewal notice.

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).

Since the record reflects that you should not have been found eligible for the QHP as of December 15, 2015, the April 26, 2016 disenrollment notice is MODIFIED to state that your QHP ended as of January 1, 2016.

Furthermore, the April 26, 2016 eligibility determination notice and May 4, 2016 the enrollment notice are MODIFIED to state that your eligibility for and enrollment in the Essential Plan was effective as of January 1, 2016.

Your case is RETURNED to effectuate the changes to your account noted above, to facilitate a reimbursement of premium payments made to the QHP insurance carrier for coverage between January 1, 2016 and May 31, 2016, and the payment of past premiums for the Essential Plan. You may also have to address the payment of any medical expenses already paid by your QHP.

## **Decision**

The December 21, 2015 eligibility determination notice is RESCINDED.

The April 26, 2016 disenrollment notice is MODIFIED to state that your QHP ended as of January 1, 2016.

The April 26, 2016 eligibility determination notice is MODIFIED to state that you were eligible for the Essential Plan for a limited time, effective January 1, 2016.

The May 4, 2016 enrollment notice is MODIFIED to state that your enrollment in the Essential Plan was effective as of January 1, 2016.

Your case is RETURNED to effectuate the changes to your account noted above, to facilitate a reimbursement of premium payments made to the QHP insurance carrier for coverage between January 1, 2016 and May 31, 2016, and the payment of past premiums for the Essential Plan. You may also have to address the payment of any medical expenses already paid by your QHP.

**Effective Date of this Decision:** January 17, 2017

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

Your QHP enrollment should have ended effective January 1, 2016.

Your Essential Plan enrollment should have begun as of January 1, 2016.

Your case is being sent back to NYSOH to effectuate these changes.

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).



## **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 December 21, 2015 eligibility determination notice is RESCINDED.

The April 26, 2016 disenrollment notice is MODIFIED to state that your QHP ended as of January 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).

The April 26, 2016 eligibility determination notice is MODIFIED to state that you were eligible for the Essential Plan for a limited time, effective January 1, 2016.

The May 4, 2016 enrollment notice is MODIFIED to state that your enrollment in the Essential Plan was effective as of January 1, 2016.

Your case is RETURNED to effectuate the changes to your account noted above, to facilitate a reimbursement of premium payments made to the QHP insurance carrier for coverage between January 1, 2016 and May 31, 2016, and the payment of past premiums for the Essential Plan. You may also have to address the payment of any medical expenses already paid by your QHP.

Your QHP enrollment should have ended effective January 1, 2016.

Your Essential Plan enrollment should have begun as of January 1, 2016.

## **Legal Authority**

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

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

