



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

Notice of Decision

Decision Date: January 9, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009841

[REDACTED]

[REDACTED]

On December 12, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 26, 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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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 and your spouse's eligibility for, and enrollment in, an Essential Plan were effective June 1, 2016?

Procedural History

On December 17, 2013, NYSOH issued a notice welcoming you to NYSOH and informing you that you had elected to receive alerts from NYSOH regarding notices in your account electronically.

On October 22, 2015, NY State of Health (NYSOH) issued a renewal notice stating that you and your spouse were eligible for Medicaid beginning January 1, 2016. The notice advised you that if you thought this was a mistake, you needed to update your account.

On November 19, 2015, you updated your NYSOH account.

On November 22, 2015, NYSOH issued a notice of eligibility determination stating that you and your spouse were no longer eligible for Medicaid, but that your Medicaid coverage would continue until December 31, 2016.

On December 7, 2015, you updated your NYSOH account.

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On December 8, 2015, NYSOH issued a notice of eligibility determination stating that you and your spouse were no longer eligible for Medicaid coverage, but that your coverage would continue until December 31, 2016.

Also on December 8, 2015, NYSOH issued an enrollment confirmation notice confirming your and your spouse's enrollment in a Medicaid Managed Care (MMC) plan, effective January 1, 2016.

On December 19, 2015, NYSOH issued a cancellation notice stating that your enrollment and your spouse's enrollment in your MMC plan would end effective January 1, 2016 because you were no longer eligible to enroll in your current health insurance.

On December 20, 2015, NYSOH issued a notice of eligibility determination stating that you and your spouse were newly eligible to receive up to \$498.00 per month in advance payments of the premium tax credit, effective January 1, 2016. The notice further stated that you needed to select a health plan. However, there is no notice to confirm that any plan was selected at that time.

On April 25, 2016, your NYSOH account was updated.

On April 26, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to enroll in the Essential Plan with a \$20.00 monthly premium each, effective June 1, 2016.

Also on April 26, 2016, NYSOH issued a notice of enrollment confirmation, confirming your enrollment and your spouse's enrollment in an Essential Plan 1, effective June 1, 2016.

On May 23, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment and your spouse's enrollment in the Essential Plan, insofar as it did not begin January 1, 2016.

On December 12, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, a Russian-language interpreter, ID# [REDACTED], provided interpreter services. 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) Your NYSOH account reflects that you and your spouse were found eligible for Medicaid as of January 1, 2016, based on information available from state and federal data sources.

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- 2) You testified that you did not receive the October 22, 2015 renewal notice, but that you did try to update your NYSOH account in November and December 2015.
- 3) You testified that NYSOH's system kept informing you that you were eligible for Medicaid, but you did not want Medicaid coverage, as your spouse was concerned about whether her doctors would accept Medicaid coverage.
- 4) You testified that you contacted NYSOH in December 2015, but were told that you had been found eligible for Medicaid based on your income from the previous year, and that nothing could be done to change your eligibility.
- 5) You testified that you informed NYSOH that you expected your 2016 income to be around \$46,000.00, but NYSOH informed you that you would still be eligible for Medicaid.
- 6) You testified that you did not hear from anyone after this point, and that no one ever told you that they would try to get your eligibility changed to anything but Medicaid.
- 7) Information in NYSOH's system (complaint # [REDACTED]) reflects that you first contacted NYSOH on November 19, 2015, the same day that you updated your NYSOH account, regarding the fact that you did not want to be eligible for Medicaid. This complaint was closed on November 30, 2016 with no indication that anyone from NYSOH contacted you with a resolution to the complaint.
- 8) On December 19, 2015, NYSOH issued a notice stating that you and your spouse were being cancelled from your MMC plan as of January 1, 2016, before your MMC coverage went into effect.
- 9) You testified that you never received the December 19, 2015 cancellation notice. You testified that you also did not receive the December 20, 2015 notice telling you that you and your spouse were now eligible for advance premium tax credits as of January 1, 2016, and that you needed to pick a plan.
- 10) You testified that it is now your understanding that you were previously enrolled to receive email alerts regarding notices in your account, though you also testified that you do not know why that was, as you never wanted to receive emails and do not really use your computer very much.
- 11) You testified that you did not receive an email alert regarding the December 19, 2015 and December 20, 2015 notices.

- 12) Your NYSOH account reflects that a notice was issued in 2013 stating that you were enrolled to receive electronic alerts regarding notices in your account.
- 13) You testified that, when you updated your account in April 2016, you were informed by the NYSOH representative that you were signed up to receive email alerts, and so you asked to be switched to regular mail notices.
- 14) You testified that you believed that you and your spouse had coverage through your MMC plan because you received insurance cards from your plan.
- 15) You testified that you also believed that your MMC plan coverage was active because you received a letter from your plan addressed to "Dear Member" in April 2016, and another letter stating that payment for an in-network service for your spouse had been approved as of April 13, 2016 (see Document [REDACTED]).
- 16) You testified that you did not know that you and your spouse had been canceled from your MMC coverage until April 24, 2016, when you received a bill stating that payment had been denied.
- 17) You testified that you contacted your MMC plan after you received this bill, and your MMC plan informed you that NYSOH had cancelled your insurance as of January 1, 2016. You testified that, shortly after this, all the bills your MMC plan had paid since January 1, 2016 were charged back, and you were sent bills for these services.
- 18) You testified that some of these bills have gone into collections.
- 19) You testified that you do not understand why NYSOH did not notify your MMC plan that your coverage had been cancelled.
- 20) You testified that you updated your NYSOH account after you found out that you had no coverage, and you and your spouse were found eligible for the Essential Plan as of June 1, 2016. Your NYSOH account confirms this.
- 21) You testified that you are looking for your and your spouse's Essential Plan coverage to be backdated to January 1, 2016 so that your bills can be covered.

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

Applicable Law and Regulations

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 issue is whether NYSOH properly determined that your and your spouse's eligibility for, and enrollment in, the Essential Plan was effective June 1, 2016.

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 25, 2016, you selected an Essential Plan, so your and your spouse's enrollment would ordinarily take effect on the first day of the second month following April 2016; that is, on June 1, 2016.

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However, you testified during the hearing that the reason you updated your account in April 2016 is because that is when you found out that you and your spouse were not in fact enrolled in the MMC plan that had been paying your medical bills since January 2016.

Based on information available to NYSOH from stated and federal data sources, NYSOH had originally found you and your spouse eligible for Medicaid beginning, January 1, 2016. You testified that you never received this renewal notice, but that you did update your account in November 2015, and were told that you were eligible for Medicaid based on your previous year's income. You further testified that you informed NYSOH that you did not want Medicaid, as your spouse was concerned about the adequacy of the coverage, but the NYSOH representatives you spoke with informed you that there was nothing they could do to get you and your spouse out of Medicaid. You testified that you therefore accepted that you and your spouse were enrolled in Medicaid, and that you received insurance identification cards for your MMC plan.

NYSOH issued a notice on December 19, 2015 stating that you and your spouse were being disenrolled from the MMC plan you had been enrolled into on December 7, 2015, and that your coverage would not begin on January 1, 2016. On December 20, 2015, NYSOH issued an eligibility determination stating that you and your spouse were newly eligible to receive advance payments of the premium tax credit as of January 1, 2016, and that you needed to select a plan.

However, the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You testified that you do not recall ever asking to receive email alerts regarding notices in your account, as you do not use your computer that often, but that the NYSOH representative you spoke with in April 2016 confirmed that you were signed up to receive email alerts. You credibly testified that you did not receive an email regarding the December 19, 2015 cancellation notice, nor did you receive an email regarding the December 20, 2015 eligibility determination notice. Moreover, there is no evidence in your account documenting that any email alert was sent to you regarding either of these notices, or that any notices were sent to you through regular mail.

Therefore, it is concluded that you did not receive proper notice from NYSOH that your and your spouse's enrollment in your MMC plan had been cancelled nor did you receive proper notice that you and your spouse had been found eligible to receive tax credits as of January 1, 2016 instead of Medicaid.

You testified that you did not know that you and your spouse did not have coverage through your MMC plan until April 2016, when a bill was denied for payment. You further credibly testified, and provided documentation to prove, that your MMC plan was treating you as a member until April 2016, and approved and paid for services between January and April 2016 (see Document [REDACTED]).

The Appeals Unit finds that NYSOH improperly ended your coverage through Medicaid and your MMC plan and improperly failed to notify you of the termination of coverage.

When you updated your account in 2016 on April 25, 2016, you were found eligible for the Essential. Therefore we must assume that had you been advised that your Medicaid coverage was ending, you could have been enrolled in the Essential Plan at that time.

Moreover, since you were never advised by either NYSOH or your plan that your coverage had been cancelled, you continued to use your Medicaid coverage. These claims may or may not be covered by your Essential Plan, through no fault of your own.

Therefore, this matter is returned to NYSOH to assist you in either restoring your coverage under Medicaid and your MMC plan from January 1, 2016 to May 31, 2016, or in backdating your coverage in your Essential Plan to January 1, 2016, based on your choice.

Decision

NYSOH improperly ended your coverage through Medicaid and your MMC plan and improperly failed to notify you of the termination of coverage.

Your case is RETURNED to NYSOH to assist you in either restoring your coverage under Medicaid and your MMC plan from January 1, 2016 to May 31, 2016, or in backdating your coverage in your Essential Plan to January 1, 2016, based on your choice.

Effective Date of this Decision: January 9, 2017

How this Decision Affects Your Eligibility

You and your spouse will be contacted so that you may choose to have your coverage under the Essential Plan backdated to January 1, 2016, or to have your coverage under Medicaid and your MMC plan reinstated for the period from January 1, 2016 to May 31, 2016, to cover the gap in your coverage.

You are responsible for premium payments for your Essential Plan coverage that might result from backdating your enrollment to January 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.

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

NYSOH improperly ended your coverage through Medicaid and your MMC plan and improperly failed to notify you of the termination of coverage.

Your case is RETURNED to NYSOH to assist you in either restoring your coverage under Medicaid and your MMC plan from January 1, 2016 to May 31, 2016, or in backdating your coverage in your Essential Plan to January 1, 2016, based on your choice.

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You and your spouse will be contacted so that you may choose to have your coverage under the Essential Plan backdated to January 1, 2016, or to have your coverage under Medicaid and your MMC plan reinstated for the period from January 1, 2016 to May 31, 2016, to cover the gap in your coverage.

You are responsible for premium payments for your Essential Plan coverage that might result from backdating your enrollment to 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:

