



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

Notice of Decision

Decision Date: February 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010572

[REDACTED]

Dear [REDACTED],

On December 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health June 24, 2016 eligibility redetermination 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 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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DEPARTMENT OF HEALTH
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Decision

February 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010572

[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 enrollment in the Essential Plan was effective August 1, 2016?

Procedural History

According to your NYSOH account, you were determined eligible for Medicaid effective April 1, 2015 and were enrolled in a Medicaid Managed Care plan, New York State Catholic Health Plan, Inc., with a plan enrollment start date of December 1, 2015.

On February 9, 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, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage. It instructed you to update your account by March 15, 2016 or you might lose the financial assistance you were currently receiving.

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

On March 16, 2016, NYSOH issued an eligibility determination notice stating that you were not eligible for Medicaid, Child Health Plus, the Essential Plan or to receive tax credits or cost-sharing reductions to help pay for the cost of

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insurance. You also could not enroll in a qualified health plan 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. The notice further stated that your eligibility would end effective March 31, 2016.

On March 17, 2016, NYSOH issued a disenrollment notice stating that your Medicaid Managed Care plan coverage with New York State Catholic Health Plan, Inc., would end effective March 31, 2016.

On May 5, 2016, NYSOH received your updated application for health insurance.

On May 6, 2016, NYSOH issued a notice stating that you may be eligible for health insurance but more information was needed to make a determination. The income information you provided did not match what NYSOH had obtained from State and Federal data sources and NYSOH was unable to make a determination until you submitted additional income documentation. You had until May 21, 2016 to submit income documentation for your household.

On May 10, 2016, NYSOH issued a notice acknowledging receipt of the documentation you submitted to resolve the inconsistency in your account, but stated that the documentation provided was insufficient. It requested that you provide additional documentation proving your income. There was no timeframe stated for you to submit the requested proof of income.

On June 15, 2016, NYSOH issued an eligibility redetermination notice that stated you were eligible to purchase a qualified health plan at full cost through NYSOH, effective July 1, 2016. That notice further stated you qualified to select a health plan outside of the open enrollment period for 2016.

On June 16, 2016, NYSOH issued notice stating that you may be eligible for health insurance but more information was needed to make a determination. The income information you provided did not match what NYSOH had obtained from State and Federal data sources and NYSOH was unable to make a determination until you submitted additional income documentation. You had until July 1, 2016 to submit income documentation for your household.

On June 18, 2016, June 19, 2016 and again on June 24, 2016, NYSOH issued notices of eligibility redetermination, based on the system updated applications, stating that you were eligible to enroll in the Essential Plan, with a \$20.00 monthly premium, effective August 1, 2016.

On June 29, 2016, you spoke to NYSOH's Account Review Unit and appealed the failure of NYSOH to provide a timely notice of eligibility redetermination and the start date of your enrollment in the Essential Plan insofar as your coverage did not begin April 1, 2016.

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On July 14, 2016, the NYSOH issued a notice of enrollment, based on your plan selection on July 13, 2016, stating that you were enrolled in an Essential Plan with a premium of \$20.00 per month and your plan would start August 1, 2016.

On December 21, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open until January 4, 2017 for you to submit additional documentation. On January 3, 2017 you uploaded to your NYSOH account a cover letter and three pay stubs. Those documents are made part of the record collectively as "Appellant's Exhibit 1." The record was closed at that time.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified that you are appealing the enrollment start date of your Essential Plan.
- 2) Your NYSOH account presently indicates that you receive your notices by regular mail. However, according to your NYSOH account you originally elected to receive all of your notices by electronic mail. You testified that you are not sure if or when you changed from electronic to paper notification.
- 3) You testified that you did not receive an email alert or a regular mail renewal notice asking you to update the information in your account by March 15, 2016.
- 4) You testified that the email address listed in your account is correct.
- 5) You testified that there was a problem with the mail delivery to your apartment during the February 2016 and March 2016 timeframe. On July 5, 2016, you submitted to NYSOH a letter from the U.S. Postal Service dated June 30, 2016 confirming that there was an error by the letter carrier and your mail was not being delivered during this time frame. (see Document [REDACTED]).
- 6) According to your NYSOH account, on May 5, 2016, you uploaded a copy of your electronically submitted 2015 Form 1040 U.S. Individual Income Tax Return.
- 7) According to your NYSOH account, on May 5, 2016, you uploaded 4 pay advices;
 - a. Dated 3/15/16 for period 2/16/16 to 2/29/16, gross pay: \$825.00

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- b. Dated 3/31/16 for period 3/01/16 to 3/15/16, gross pay: \$2,350.00
 - c. Dated 4/15/16 for period 3/16/16 to 3/31/16, gross pay: \$2,805.00
 - d. Dated 4/29/16 for period 4/01/16 to 4/15/16, gross pay: \$5,300.00
- 8) According to your NYSOH account, on June 15, 2016, you uploaded 3 pay advices;
- a. Dated 5/13/16 for period 4/16/16 to 4/30/16, gross pay \$750.00
 - b. Dated 5/31/16 for period 5/01/16 to 5/15/16, gross pay \$1,460.00
 - c. Dated 6/15/16 for period 5/16/16 to 5/31/16, gross pay \$1,100.00
- 9) On January 3, 2017, you uploaded to your account 3 pay advices (one was a duplicate) (see Appellants Exhibit 1);
- a. Dated 6/15/16 for period 5/16/16 to 5/31/16, gross pay \$1,100.00
 - b. Dated 6/30/16 for period 6/01/16 to 6/15/16, gross pay \$1,440.00
 - c. Dated 7/17/16 for period 6/16/16 to 6/30/16, gross pay \$710.00 with a Year to Date Total Gross Pay \$21,010.00.
- 10) According to your NYSOH account, your income was verified on June 17, 2016 and your income in your application was changed to reflect the submissions received and an eligibility redetermination was made on the updated income calculations.
- 11) According to your NYSOH account and your testimony, you enrolled in an Essential Plan on July 13, 2016 with an August 1, 2016 start date.
- 12) You testified that you wanted your Essential Plan to begin on April 1, 2016 because you have a gap in coverage of four months due to being disenrolled from Medicaid Managed Care plan on March 31, 2016.
- 13) You testified that there are outstanding medical treatment bills for the time period that you did not have health insurance coverage. You are also concerned about having to pay a tax penalty.

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, when NYSOH conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an

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eligibility redetermination for the upcoming year (see 45 Code of Federal Regulations (CFR) § 155.335(a), (b)).

NYSOH must send an annual renewal notice that contains the individual's projected eligibility for the upcoming 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)).

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 (N.Y. 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 generally 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 the Marketplace from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); 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)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, the Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account within 1 day of the notice being generated (45 CFR §155.230(d); 42 CFR §435.918(b)(3) and (4)). If an electronic notice is undeliverable, NYSOH must send a notice by regular mail within three business days of the date of a failed electronic communication (42 CFR §435.918(b)(5)).

Legal Analysis

The issue is whether NYSOH properly determined that your enrollment in the Essential Plan was effective August 1, 2016.

Generally, NYSOH will redetermine a qualified individual's eligibility for financial assistance once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's February 9, 2016 renewal notice stated that the information you provided on your application was inconsistent with information obtained from federal and state data sources such that NYSOH was not able to determine whether you were eligible to continue your financial assistance for health insurance. You were instructed by that notice to supply additional information by March 15, 2016 so a decision could be made and informed that, if you missed this deadline, the financial assistance you were receiving could end.

Because there was no timely response to this notice, you were terminated from your Medicaid Managed Care plan effective March 31, 2016.

On May 5, 2016, NYSOH received your updated application for health insurance. Thereafter, NYSOH issued notices requesting income information and additional income information and, after you had submitted several pay advices, on June 17, 2016 NYSOH verified your income and determine you eligible for the Essential Plan, effective August 1, 2016, as stated in the June 18, 19, and 24, 2016 eligibility redetermination notices.

Generally, the date on which an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

Strictly adhering to the regulation and rules regarding the start date for the Essential Plan, 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.

The record reflects that, on July 14, 2016, you selected an Essential Plan, so enrollment properly took effect on the first day of the month following July 2016; that is, on August 1, 2016.

However, you testified and the record reflects that you originally elected to receive alerts regarding notices from NYSOH electronically. While your NYSOH account currently reflects that you receive notices by regular mail there is no indication in your account when this change was made. You credibly testified that you did not receive any electronic alerts regarding the renewal notice issued on February 9, 2016, which directed you to update the information in your

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NYSOH account by March 15, 2016. Further there is credible evidence in the record that your regular mail was not being delivered by the U.S. Postal Service during the February 2016 and March 2016 timeframe.

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

Further, it is reasonable to conclude that, had you received the proper notice from NYSOH, you would have submitted similar income information at the appropriate time that you eventually submitted on May 5, 2016 and June 15, 2016. Had that information had been submitted prior to March 15, 2016, you would have been found eligible for the Essential Plan effective April 1, 2016.

Therefore, the June 18, 2016, June 19, 2016 eligibility redetermination notices have been superseded (replaced) by the June 24, 2016 eligibility redetermination notice, which is MODIFIED to state that, effective April 1, 2016, you were eligible to enroll in the Essential Plan with a monthly premium of \$20.00. Also, the July 14, 2016 enrollment notice is MODIFIED to state that your enrollment in an Essential Plan was effective April 1, 2016.

Your case is RETURNED to NYSOH to effectuate these changes and to notify you accordingly.

Decision

The June 24, 2016 eligibility redetermination notice is MODIFIED to state that, effective April 1, 2016, you were eligible to enroll in the Essential Plan with a monthly premium of \$20.00.

The July 14, 2016 enrollment notice is MODIFIED to state that your enrollment in an Essential Plan was effective as of April 1, 2016.

Your case is RETURNED to NYSOH to effectuate these changes and to notify you accordingly.

You will be responsible for any monthly premiums that are due as a result of this change.

Effective Date of this Decision: February 10, 2017

How this Decision Affects Your Eligibility

Your enrollment in the Essential Plan should have begun as of April 1, 2016.

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Your case is being sent back to NYSOH to change the effective date of eligibility for and enrollment in your Essential Plan to April 1, 2016, and to notify you once this has been done.

You will be responsible for any monthly premiums that are due as a result of this change.

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

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Summary

The June 24, 2016 eligibility redetermination notice is MODIFIED to state that, effective April 1, 2016, you were eligible to enroll in the Essential Plan with a monthly premium of \$20.00.

The July 14, 2016 enrollment notice is MODIFIED to state that your enrollment in an Essential Plan was effective as of April 1, 2016.

Your case is RETURNED to NYSOH to effectuate these changes and to notify you accordingly.

You will be responsible for any monthly premiums that are due as a result of this change.

Your enrollment in the Essential Plan should have begun as of April 1, 2016.

Your case is being sent back to NYSOH to change the effective date of eligibility for and enrollment in your Essential Plan to April 1, 2016, and to notify you once this has been done.

You will be responsible for any monthly premiums that are due as a result of this change.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

