



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

Notice of Decision

Decision Date: February 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010681

[REDACTED]

Dear [REDACTED],

On January 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 18, 2016 eligibility determination and disenrollment 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).

This page intentionally left blank.



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

Decision

Decision Date: February 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010681



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 you and your spouse's eligibility for to enroll in coverage through NYSOH, and enrollment in a qualified health plan (QHP), ended effective June 30, 2016?

Procedural History

On November 22, 2015, NYSOH issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to purchase a full cost QHP, effective January 1, 2016. The notice further directed you to provide documentation confirming your immigration status before February 14, 2016 in order to confirm your eligibility.

On November 26, 2015, NYSOH issued a notice confirming your and your spouse's enrollment in a QHP. On page five of the notice, it directed you to submit documentation of your and your spouse's immigration status before February 14, 2016.

On February 25, 2016, you updated your NYSOH application.

On February 26, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were conditionally eligible to purchase a full cost QHP, effective April 1, 2016. The notice further directed you and your spouse to submit documentation of your immigration status by May 25, 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 June 18, 2016, NYSOH issued an eligibility determination notice stating that you were not qualified to enroll in coverage through NYSOH because NYSOH had not received information from federal data sources to confirm your immigration status, and your spouse was not eligible to enroll in coverage through NYSOH because she had not confirmed her immigration status within the required timeframe. Your and your spouse's eligibility for coverage ended effective June 30, 2016.

Also on June 18, 2016, NYSOH issued a disenrollment notice stating that your and your spouse's enrollment in your QHP was terminated effective June 30, 2016 because you were no longer eligible to enroll in health insurance through NYSOH.

On July 5, 2016, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination and disenrollment notices, insofar as they ended your and your spouse's eligibility for, and enrollment in, your QHP on June 30, 2016.

On January 6, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open for fifteen days at the end of the hearing to provide you with the opportunity to submit immigration documentation. No documentation was received by the Appeals Unit, and the record is now closed.

Findings of Fact

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

- 1) You testified, and your NYSOH account reflects, that you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you did not receive any electronic alerts notifying you of any notice in your NYSOH account stating that your eligibility was only conditional and that you needed to provide documentation of your citizenship status.
- 3) You testified that you check the email address that is on file with NYSOH frequently, and that you do not recall receiving any emails from NYSOH.
- 4) You testified that you and your spouse are currently Legal Permanent Residents as of September 2016, and that you both have "Green Cards."

- 5) You testified that, prior to this, you both had Employment Authorization status, but that only you had a card stating this, as your wife did not work.
- 6) You testified that your wife only had a 797c to show her immigration status.
- 7) You testified that you have uploaded your Employment Authorization card many times, and that you always submitted it when you updated your account.
- 8) You testified that you do not log into your NYSOH account very often, and that you do not check to see whether documentation that you've submitted or uploaded has been received.
- 9) Your NYSOH account does not contain any employment authorization documents.
- 10) Your NYSOH account does contain an I-797C, Notice of Action from the Department of Homeland Security that is dated September 26, 2007 and lists your spouse as the applicant (Document [REDACTED]). This document was uploaded on April 5, 2015.
- 11) You testified that you never received any notices that stated that you needed to supply proof of your and your spouse's immigration status.
- 12) You testified that you became aware that you and your spouse were disenrolled from your NYSOH coverage when you received a disenrollment notice in the regular mail from NYSOH.
- 13) You testified that you contacted NYSOH after receiving this notice, and were told that you never submitted immigration documents. You testified that you informed the representative you were speaking with that you had submitted documents, but they told you that you had to file an appeal.
- 14) You testified that you have not had insurance since your coverage ended, and you have been paying for medical expenses out of pocket.
- 15) Your NYSOH account reflects that on January 9, 2017, you updated your NYSOH application. That application listed you and your spouse as having I-551 Permanent Resident Cards.
- 16) On January 10, 2017, NYSOH issued an eligibility determination stating that you and your spouse were eligible to purchase a QHP at

full cost, effective February 1, 2017. The notice did not request any further documentation.

- 17) You testified that you are not seeking to retroactively enroll in coverage for the months after you and your spouse were disenrolled from your QHP.

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

Applicable Law and Regulations

Citizenship and Immigration Status

To enroll in a qualified health plan through NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5 day period. (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90 day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

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, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR §155.230(d); 42 CFR §435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse were no longer eligible to enroll in a QHP through NYSOH, effective June 30, 2016

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that their citizenship status is satisfactory.

If NYSOH cannot verify an individual's citizenship status, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency. For purposes of verifying citizenship, notice is considered received 5 days after the date on the notice.

In the eligibility determinations issued on November 22, 2015 and February 26, 2016, you were advised that your and your spouse's eligibility was only conditional, and that you needed to confirm your immigration status before February 14, 2016 and May 25, 2016, respectively.

The record reflects that NYSOH did not receive the requested immigration documentation before the deadline.

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 an electronic alert regarding the eligibility determination notice, which directed you that your and your spouse's eligibility was only conditional and that you needed to submit documentation to confirm your citizenship status. There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation, nor that any notice was sent to you by regular mail.

Additionally, you testified that you were under the impression that NYSOH had the required immigration documentation, as you had always uploaded it to NYSOH when you updated your application, and you believed NYSOH had received it. Moreover, your account did contain documentation from your spouse in the form of an I-797C notice of action from the Department of Homeland Security. Your testimony was credible, and was supported by the fact that your account does contain an immigration document uploaded by you on behalf of your spouse.

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).

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit documentation of your immigration status, and that you were not aware that your eligibility for coverage was only conditional.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the June 18, 2016 eligibility determination stating that you and your spouse are no longer eligible for failure to submit documentation is RESCINDED, and the June 18, 2016 disenrollment notice is also RESCINDED.

Your case is RETURNED to NYSOH to assist you and your spouse in reenrolling into a health plan for coverage with an effective date of July 1, 2016, if you so choose. You will be responsible for any unpaid premiums if you choose to backdate coverage.

The record indicates that NYSOH's actions in disenrolling you and your spouse from coverage resulted in you both being without insurance coverage for part of the 2016 coverage year.

Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. You might qualify for a health coverage exemption in 2016 if you didn't have health coverage while you were waiting for an appeal decision about coverage eligibility or savings and your appeal was eventually successful.

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

You will find the information you need to claim the exemption due to an appeal decision at <https://www.healthcare.gov/exemptions-tool/#/results/2016/details/eligible-based-on-appeal>. You can also call 1-800-318-2596.

Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word "pending" in column "c" and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

Decision

The June 18, 2016 notice of eligibility determination is RESCINDED.

The June 18, 2016 disenrollment notice is RESCINDED.

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).

Your case is RETURNED to NYSOH to assist you and your spouse in reenrolling into a health plan for coverage with an effective date of July 1, 2016 if you so choose. You will be responsible for any unpaid premiums if you choose to backdate coverage.

Effective Date of this Decision: February 13, 2017

How this Decision Affects Your Eligibility

NYSOH erred in disenrolling you and your spouse from your QHP, effective June 30, 2016, without the proper notice.

Your case is being sent back to NYSOH to assist you in reenrolling into a health plan for coverage as of July 1, 2016, if you so choose.

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):

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).

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 June 18, 2016 notice of eligibility determination is RESCINDED.

The June 18, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to assist you and your spouse in reenrolling into a health plan for coverage with an effective date of July 1, 2016 if you so choose. You will be responsible for any unpaid premiums if you choose to backdate coverage.

NYSOH erred in disenrolling you and your spouse from your QHP, effective June 30, 2016, without the proper notice.

Your case is being sent back to NYSOH to assist you in reenrolling into a health plan for coverage as of July 1, 2016, if you so choose.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

