



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

Notice of Decision

Decision Date: September 8, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011081

[REDACTED]

Dear [REDACTED],

On August 24, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's July 27, 2016 eligibility determination 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).

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DEPARTMENT OF HEALTH
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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 properly determine that your and your spouse's enrollment in an Essential Plan was terminated effective July 31, 2016?

Did the NY State of Health properly determine that your children's enrollment in their Child Health Plus plan was effective September 1, 2016?

Procedural History

On January 14, 2015, NYSOH found you and your spouse eligible to received advance premium tax credits and cost sharing reductions effective February 1, 2015. That same notice stated that your children were eligible for Medicaid with an effective date of January 1, 2015.

On October 24, 2015, NY State of Health (NYSOH) issued a renewal notice stating, in part, that there was not enough information from state and federal data sources to determine whether your family would qualify for financial assistance in the next coverage year. It directed you to update the information in your account by December 15, 2015 or your family's financial assistance might end.

On December 10, 2015, NYSOH received your updated application for health insurance.

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On December 11, 2015, NYSOH issued a notice of eligibility determination, based on your December 10, 2015 application, stating that you and your spouse were eligible to enroll in the Essential Plan, effective January 1, 2016. That same notice stated that your two children were no longer eligible for Medicaid. However, their Medicaid coverage would continue because certain individuals who have been determined eligible for Medicaid remain eligible for benefits for twelve continuous months.

Also on December 11, 2015, NYSOH issued a disenrollment notice stating that your and your spouse's silver-level qualified health plan would end effective December 31, 2015.

On December 13, 2015, NYSOH issued a notice of enrollment, based on your plan selection on December 12, 2015, stating that your two children were enrolled in a Medicaid Managed Care plan with a plan enrollment date of April 1, 2015. That notice further stated that you and your spouse were enrolled in Essential Plan 1 with \$20.00 monthly premium each and that the plan enrollment start date was January 1, 2016.

On June 15, 2016, NYSOH issued a renewal notice stating, in part, that there was not enough information from state and federal data sources to determine whether the members of your family would qualify for financial assistance in the next policy period. It directed you to update the information in your account by July 15, 2016 or your family's financial assistance might end.

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

On July 17, 2016, NYSOH issued an eligibility determination notice stating that you and your family members 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 insurance. Therefore, your family was redetermined eligible to purchase a qualified health plan at full cost through NYSOH, effective August 1, 2016. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame.

Also on July 17, 2016, NYSOH issued a disenrollment notice stating that your and your spouse's Essential Plan 1 coverage would end effective July 31, 2016, and that your children's Medicaid Managed Care plan coverage would end effective July 31, 2016.

On July 26, 2016, NYSOH received your updated application for health insurance.

On July 26, 2016, based on the information contained in the application submitted on that date, NYSOH prepared a preliminary eligibility determination stating that both you and your spouse were eligible for the Essential Plan with

\$20.00 per month premium each effective September 1, 2016. That same preliminary eligibility determination stated your children were eligible to enroll in Child Health Plus, with a \$9.00 per month premium each once you selected a plan with an eligibility effective date of September 1, 2016.

Also on July 26, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your and your spouse's enrollment in the Essential Plan insofar as it did not begin August 1, 2016. You also appealed the start date of your children's Child Health Plus plan insofar as it did not begin August 1, 2016.

On July 27, 2016, NYSOH issued an eligibility redetermination notice with findings that were consistent with the July 26, 2016 preliminary redetermination.

Also on July 27, 2016, NYSOH issued an enrollment confirmation notice which stated that you and your spouse were enrolled in the Essential Plan 1 with a \$20.00 per month premium each with a plan enrollment start date of September 1, 2016. That same enrollment confirmation notice stated that your children were enrolled in their Child Health Plus plan with an \$18.00 per month premium with a plan enrollment start date of September 1, 2016.

On August 24, 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 support the following findings of fact:

- 1) According to your NYSOH account and your testimony, you elected to receive your notices from NYSOH by regular mail.
- 2) According to your NYSOH account and your testimony, you and your spouse were enrolled in a silver-level qualified health plan from January 1, 2015 to December 31, 2015.
- 3) According to your NYSOH account and your testimony, your two children were enrolled in Medicaid effective February 1, 2015 and in their Medicaid Managed Care plan effective April 1, 2015.
- 4) You submitted an updated application to NYSOH for financial assistance on December 10, 2015.
- 5) The record reflects that as a result of that December 10, 2015 application you and your spouse were found eligible for the Essential Plan effective

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January 1, 2016. That same eligibility redetermination notice stated that your children were no longer eligible for Medicaid but their Medicaid eligibility would continue.

- 6) According to your NYSOH account and your testimony, you and your spouse enrolled in an Essential Plan on December 12, 2015 with an effective start date of January 1, 2016. NYSOH issued an enrollment confirmation notice to this effect.
- 7) The next notice issued by NYSOH was the June 15, 2016 notice stating it was time to renew your and your family's health coverage.
- 8) You testified that you do not recall receiving that June 15, 2016 notice to renew. You testified that because of the many similar street names in your area that regular mail is often mis-delivered.
- 9) You testified that you did not know that you needed to update your account until you received the July 17, 2016 disenrollment notice stating your children had been disenrolled from Medicaid, effective July 31, 2016, and that you and your spouse had been disenrolled from Essential Plan 1, effective July 31, 2016.
- 10) According to your NYSOH account and your testimony, you updated your account on July 26, 2016. On that date, you selected an Essential Plan for you and your spouse and also selected a Child Health Plus plan for your children.
- 11) According to your NYSOH account and your testimony, your children's enrollment in their Medicaid Managed Care plan was from April 1, 2015 to July 31, 2016 when it was terminated by NYSOH.
- 12) You testified that you wanted your and your spouse's enrollment in an Essential Plan to begin on August 1, 2016 so that neither of you would have a gap in insurance coverage.
- 13) You testified that both you and your spouse have chronic medical conditions that require ongoing medical treatment. You both incurred medical expenses during the month of August 2016.
- 14) You testified that you want your children's Child Health Plus coverage to start August 1, 2016, so there is no gap in their health insurance coverage.

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, Child Health Plus or the Essential Plan. 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 coverage 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 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.

Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every 12 months or "whenever it receives information about a change in a beneficiary's circumstances that may affect eligibility" (42 CFR § 435.916(a)(1), (d)). NYSOH must make its "redetermination of eligibility 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, including but not limited to information accessed through any data bases accessed by the agency" (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR § 155.335(h)).

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

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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)).

Essential Plan: Twelve months of coverage

New York State has elected to adopt the Medicaid policy regarding 12 months of continuous enrollment (42 CFR § 600.320(d); New York's Basic Health Plan Blueprint, pp. 8 and 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

This means that an individual may apply and enroll for coverage at any point in time throughout the year, including outside the open enrollment period and without needing a special enrollment period (NY Social Services Law § 369-gg(4)(d)).

New York State has also elected to redetermine Essential Plan enrollees every 12 months from the effective date of eligibility as long as enrollees are under age 65, not enrolled in minimum essential coverage and remain state residents. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12 month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, or failure to make the applicable premium payment. (42 CFR 600.340(f); NY Social Services Law § 369-gg(3) and (4)(d)). Enrollees are required to report changes in circumstances within 30 days, which NYSOH will assess and act upon accordingly (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>).

Child Health Plus

The "period of eligibility" for Child Health Plus is "that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information and documentation and ending on the last day of the twelfth month following such date," unless the CHP premiums are not timely paid or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law § 2510(6)).

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“A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage” (42 CFR § 457.340(f)).

The State of New York has provided that a child’s period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month, if the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second following month (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your and your spouse’s enrollment in your Essential Plan 1 was terminated effective July 31, 2016.

Initially, it is noted that the date on which an Essential Plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month. You testified and the record reflects that, on December 12, 2016, you selected an Essential Plan so your and your spouse’s enrollment properly took effect on the first day of the first month following December 2015; that is, on January 1, 2016.

New York State has elected to redetermine Essential Plan enrollees every 12 months from the effective date of eligibility as long as enrollees are under age 65, not enrolled in minimum essential coverage and remain state residents. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12 month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, or failure to make the applicable premium payment.

Generally, if none of the events noted above occur, the enrollee’s or enrollees’ coverage will continue until the end of the 12 month period from the effective date of the initial eligibility determination or from the effective date of renewal.

The record reflects that you and your spouse were determined eligible for the Essential Plan, effective January 1, 2016, and were enrolled in an Essential Plan as of that date. The record does not contain any information to support that any disqualifying events occurred nor pertain to your and your spouse's enrollment such that your coverage should have continued until the end of the 12 month period; that is, until December 31, 2016. However, NYSOH terminated your and your spouse's enrollment at the time that your children's eligibility for Medicaid was up for redetermination, which was in error.

Therefore, the July 17, 2016 eligibility redetermination is RESCINDED in part as it relates to your and your spouse's eligibility for the Essential Plan. Similarly, the July 17, 2016 disenrollment notice is RESCINDED in part as it relates to your and your spouse's continuous enrollment in the Essential Plan.

Your case is RETURNED to NYSOH to restore your and your spouse's coverage in MVP Health Care Essential Plan 1 as of August 1, 2016 and through to December 31, 2016, which is the end of the 12 month period, provided none of the events noted above occur in that time frame. NYSOH is directed to notify you once your coverage has been restored.

You will be responsible for the monthly premium payments for the month of August 2016 and any other month applicable.

The second issue is whether NYSOH properly determine that your children's enrollment in their Child Health Plus plan was effective September 1, 2016.

You testified that you did not receive the June 15, 2016 notice from NYSOH telling you that you needed to update the information in your account. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. You testified that because of similar street names in your area, mail is often mis-directed. However, there is no evidence in the record that this June 15, 2016 notice or any of the notices that were sent to your mailing address were returned as undeliverable. As such, the notice is deemed to have been mailed to your proper address.

Therefore, the record reflects that NYSOH properly notified you of the need to renew and update the information in your NYSOH account to ensure your children's eligibility for financial assistance and enrollment in a health plan.

The record shows that, on July 26, 2016, you updated the information in your NYSOH account and submitted a request to enroll your children in a Child Health Plus plan.

The date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following

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month. A plan that is selected from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

The record reflects that you selected a Child Health Plus plan for your children on July 26, 2016, which date is after the fifteenth of the month. As such, your children's Child health Plus coverage would begin, the first day of the second following month after July 2016, that is, September 1, 2016.

Therefore, NYSOH's July 27, 2016 enrollment confirmation notice insofar as it states that your children's enrollment in their Child Health Plus plan was effective September 1, 2016, is correct and must be AFFIRMED.

Decision

The July 17, 2016 eligibility redetermination is RESCINDED in part as it relates to your and your spouse's eligibility for the Essential Plan.

The July 17, 2016 disenrollment notice is RESCINDED in part as it relates to your and your spouse's continuous enrollment in the Essential Plan.

Your case is RETURNED to NYSOH to restore your and your spouse's coverage in MVP Health Care Essential Plan 1, as of August 1, 2016 through to December 31, 2016, which is the end of the 12 month period, provided no disqualifying events occur in that time frame. NYSOH is directed to notify you once your coverage has been restored.

The July 27, 2016 eligibility redetermination is AFFIRMED in part as it relates to your children's eligibility for Child Health Plus effective September 1, 2016.

The July 27, 2016 enrollment confirmation notice is AFFIRMED in part as it relates to your children's Child Health Plus plan enrollment start date of September 1, 2016.

Effective Date of this Decision: September 8, 2016

How this Decision Affects Your Eligibility

You and your spouse are eligible for the Essential Plan as of January 1, 2016 and remain eligible until December 31, 2016 provided no disqualifying events occur in that time frame.

Your case is being sent back to NYSOH to restore your Essential Plan coverage as of August 1, 2016, and to notify you accordingly.

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PLEASE NOTE you are responsible for paying the insurance carrier any unpaid Essential Plan premiums that are owed for the month of August 2016 and any other months applicable.

Your children are eligible for the Child Health Plus effective September 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:
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- By fax: 1-855-900-5557

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Summary

The July 17, 2016 eligibility redetermination is RESCINDED in part as it relates to your and your spouse's eligibility for the Essential Plan.

The July 17, 2016 disenrollment notice is RESCINDED in part as it relates to your and your spouse's continuous enrollment in the Essential Plan.

Your case is RETURNED to NYSOH to restore your and your spouse's coverage in MVP Health Care Essential Plan 1, as of August 1, 2016 through to December 31, 2016, which is the end of the 12 month period, provided no disqualifying events occur in that time frame. NYSOH is directed to notify you once your coverage has been restored.

The July 27, 2016 eligibility redetermination is AFFIRMED in part as it relates to your children's eligibility for Child Health Plus effective September 1, 2016.

The July 27, 2016 enrollment confirmation notice is AFFIRMED in part as it relates to your children's Child Health Plus plan enrollment start date of September 1, 2016.

You and your spouse are eligible for the Essential Plan as of January 1, 2016 and remain eligible until December 31, 2016 provided no disqualifying events occur in that time frame.

Your case is being sent back to NYSOH to restore your Essential Plan coverage as of August 1, 2016, and to notify you accordingly.

PLEASE NOTE you are responsible for paying the insurance carrier any unpaid Essential Plan premiums that are owed for the month of August 2016 and any other months applicable.

Your children are eligible for the Child Health Plus effective September 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:

