



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

Notice of Decision

Decision Date: January 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011302

[REDACTED]

Dear [REDACTED],

On December 29, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's June 17, 2016 eligibility determination, July 21, 2016 eligibility determination, and July 21, 2016 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 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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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine that your eligibility for the Essential Plan ended effective June 30, 2016?

Did NYSOH properly determine that your eligibility for and enrollment in the Essential Plan was effective September 1, 2016?

Procedural History

On November 23, 2015, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan, effective January 1, 2016.

On November 25, 2015, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in the Essential Plan with Vision and Dental for a monthly premium of \$30.77, effective January 1, 2016.

On March 19, 2016, NYSOH issued a notice of eligibility determination, based on your March 17, 2016 updated application, stating that you were eligible to enroll in the Essential Plan for a limited time. The notice directed you to submit documentation confirming your income by June 15, 2016. This eligibility was effective as of March 1, 2016.

On May 15, 2016, NYSOH issued a notice stating that it was time to renew your health coverage. That notice stated that, based on information from federal and

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

No income documentation was submitted and no updates were made to your account by June 15, 2016.

On June 17, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost through NYSOH. The notice further stated that you were not eligible for Medicaid, the Essential Plan or to receive Advance Premium Tax Credits because you did not respond to the renewal notice and did not complete your renewal within the required time-frame. This eligibility was effective July 1, 2016.

Also on June 17, 2016, NYSOH issued a notice of dis-enrollment stating that you were dis-enrolled from your Essential Plan, as of June 30, 2016, because you were no longer eligible to remain in your plan.

On July 21, 2016, NYSOH issued an eligibility redetermination notice, based on your July 20, 2016 updated application, stating that you were eligible to enroll in the Essential Plan for a limited time, pending receipt of proof of your income by October 18, 2016. This eligibility was effective as of September 1, 2016.

Also on July 21, 2016, NYSOH issue a notice of enrollment confirmation stating that you were enrolled in the Essential Plan Plus Vision and Dental with a \$46.56 monthly premium. This enrollment was effective as of September 1, 2016.

On August 5, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential insofar as it did not begin August 1, 2016.

On December 29, 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 supports the following findings of fact:

- 1) On November 17, 2015, you updated your account for the 2016 coverage year and enrolled in an Essential Plan beginning January 1, 2016.
- 2) On March 17, 2016, the "system" ran your eligibility and an updated application was submitted on your behalf. An updated eligibility

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determination was issued finding you conditionally eligible to remain enrolled in your Essential Plan pending receipt of documentation confirming your income by June 15, 2016.

- 3) You testified that you did not receive the March 19, 2016 eligibility determination notice directing you to submit proof of your income to NYSOH by June 15, 2016.
- 4) You testified, and the record reflects, that you receive your correspondence from NYSOH by regular mail.
- 5) NYSOH issued a renewal notice on May 15, 2016 directing you to update your account by June 15, 2016 to renew your coverage for the 2016 coverage year.
- 6) You testified that you did not receive the May 15, 2016 renewal notice.
- 7) The record reflects that you failed to submit proof of your income or update your account by June 15, 2016.
- 8) The record reflects that your enrollment in your Essential Plan was deleted by the “system” on June 16, 2016, effective June 30, 2016.
- 9) The June 17, 2016 eligibility determination notice found you not eligible for financial assistance from NYSOH because you failed to respond to the May 15, 2016 renewal notice.
- 10) You testified that the mailing address listed on the March 17, 2016 eligibility determination notice and the May 15, 2016 renewal notice was your correct mailing address. You testified that this was your mailing address throughout 2016.
- 11) You testified that you first learned you were dis-enrolled from your Essential Plan in July when you were informed by a pharmacist that your coverage was no longer active.
- 12) You testified that you first contacted NYSOH to re-enroll into coverage in July 2016.
- 13) The record reflects that your account was updated and a new Essential Plan enrollment was added on July 20, 2016 with a September 1, 2016 start date.
- 14) You testified that you were without health coverage in July and August 2016.

- 15) You testified that you continued to send the premium payments for July and August 2016 to your health plan. You further testified that the health plan retained these payments and later provided you with a “credit” to your account.
- 16) You are seeking to have your Essential Plan coverage back dated to July 1, 2016 because you have outstanding medical bills from this time.

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

Applicable Law and Regulations

Verification of Eligibility for the Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

NYSOH must verify the eligibility of an applicant for the Essential Plan consistent with the standards set in 45 CFR § 155.315 and § 155.320 (New York’s Basic Health Plan Blueprint, pgs. 16-17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>; 42 CFR § 600.345(a)(2)).

An applicant is required to attest to their household’s projected annual income. (45 CFR § 155.320(c)(3)(ii)(B)). For all individuals whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security in order to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant’s attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant in order to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any updates in eligibility to the Essential Plan effective the first day of the following month for changes received by NYSOH from the first to the fifteenth of any month (45 CFR § 155.420(b)(1)(i); *see also* 42 CFR § 600.320(c)). For updates 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 § 155.420(b)(1)(ii); *see also* 42 CFR § 600.320(c)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your eligibility for the Essential Plan ended effective June 30, 2016.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her household's projected annual income. For individuals seeking enrollment in the Essential Plan, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on March 19, 2016 you were advised that you were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income before June 15, 2016.

You testified that you did not receive any notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation.

Accordingly, your eligibility for the Essential Plan terminated as of June 30, 2016 because you did not submit documentation and did not adequately demonstrate that you could not provide documentation to confirm your income.

However, it is noted that the June 17, 2016 eligibility determination notice stated that you were not eligible for financial assistance through NYSOH because you failed to respond to the May 15, 2016 renewal notice. The evidence establishes that you renewed your coverage through NYSOH for the 2016 coverage year on November 17, 2015. Therefore, NYSOH properly found you eligible to purchase a qualified health plan at full cost, albeit under improper reasoning.

Accordingly, the June 17, 2016 eligibility determination notice, to the extent it states that you do not qualify for Medicaid, Child Health Plus, the Essential Plan or to receive Advance Premium Tax Credits to help pay for the cost of your insurance because you did not respond to the renewal notice and did not complete your renewal within the required time frame, is MODIFIED to state that you do not qualify for Medicaid, Child Health Plus, the Essential Plan or to receive Advance Premium Tax Credits to help pay for the cost of your insurance because you failed to submit documentation confirming your income within the required time frame.

The second issue is whether NYSOH properly determined that your re-enrollment in an Essential Plan was effective September 1, 2016?

You testified, and the record indicates, that you updated your NYSOH application on July 20, 2016. As a result, you were found conditionally eligible for the Essential Plan as of September 1, 2016, pending proof of your income by October, 18, 2016, and enrolled into a plan that day.

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 July 20, 2016, you selected an Essential Plan, so your enrollment properly took effect on the first day of the second month following July; that is, on September 1, 2016.

Therefore, the July 21, 2016 eligibility determination notice, and the July 21, 2016 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective September 1, 2016, is correct and must be AFFIRMED.

Decision

The June 17, 2016 eligibility determination notice is MODIFIED to state that you do not qualify for Medicaid, Child Health Plus, the Essential Plan or to receive Advance Premium Tax Credits to help pay for the cost of your insurance because you failed to submit documentation confirming your income within the required time frame.

The July 21, 2016 notice of eligibility determination is AFFIRMED.

The July 21, 2016 notice of enrollment is AFFIRMED.

Effective Date of this Decision: January 26, 2017

How this Decision Affects Your Eligibility

NYSOH properly found you not eligible to enroll in the Essential Plan effective June 30, 2016 because you did not provide documentation of your household's income.

NYSOH properly found that your reenrollment in the Essential Plan was 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

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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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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The June 17, 2016 eligibility determination notice is MODIFIED to state that you do not qualify for Medicaid, Child Health Plus, the Essential Plan or to receive Advance Premium Tax Credits to help pay for the cost of your insurance because you failed to submit documentation confirming your income within the required time frame.

NYSOH properly found you not eligible to enroll in the Essential Plan effective June 30, 2016 because you did not provide documentation of your household's income.

The July 21, 2016 notice of eligibility determination is AFFIRMED.

The July 21, 2016 notice of enrollment is AFFIRMED.

NYSOH properly found that your reenrollment in the Essential Plan was effective September 1, 2016.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

