



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

Notice of Decision

Decision Date: March 02, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011370



Dear [REDACTED],

On January 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 9, 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 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.

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 Date: March 02, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011370

[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 your family's eligibility for and enrollment in health insurance was effective August 1, 2016?

Procedural History

On March 26, 2016, NYSOH issued a notice, based on your March 25, 2016 application, stating that additional information was needed to make an eligibility determination for your family. That notice also stated that you must provide proof of household income by April 10, 2016.

Also on March 26, 2016, NYSOH issued a disenrollment notice stating that your family's coverage in a Medicaid Managed Care plan would end effective April 30, 2016.

On April 15, 2016, you uploaded your photo identification and copies of your paystubs, including 4 paystubs from your primary employer and two paystubs from your secondary employer, and your two older children's four current paystubs (see Documents [REDACTED], and [REDACTED]). Your oldest child's documents were validated on April 19, 2016. You and your one older child's documents were invalidated on April 25, 2016.

On April 20, 2016, NYSOH issued a notice stating that additional information was needed to determine your family's eligibility for financial assistance. That notice also stated that you must provide proof of household income by May 5, 2016.

On April 26, 2016, NYSOH issued a notice stating that additional proof of income was needed for you and your two older children.

On May 2, 2016, you uploaded copies of your earnings statement for the months of January 2016 through April 2016 from your primary employer and three additional consecutive current paystubs from your secondary employer, as well as four current consecutive paystubs for your oldest child (see Documents [REDACTED] and [REDACTED]). Your oldest child's documents were invalidated on May 3, 2016 and May 6, 2016.

On May 4, 2016, NYSOH issued a notice stating that additional proof of income was needed for you and your two older children.

Also on May 4, 2016, you uploaded four additional current and consecutive paystubs for your second oldest child (see Documents [REDACTED]).

On May 13, 2016 and June 24, 2016, you uploaded additional proof of income for yourself and your two older children; which proof was invalidated on June 15, 2016 and June 29, 2016 (see Documents [REDACTED] and [REDACTED]).

On June 30, 2016, NYSOH issued a notice stating that additional information was needed to make an eligibility determination for your family. That notice also stated that you must provide proof of income by July 3, 2016 for yourself and your three younger children by July 14, 2016.

On July 2, 2016, NYSOH issued a notice stating that additional proof of income was needed for your family.

On July 9, 2016, NYSOH issued an eligibility redetermination notice, based on your July 8, 2016 updated application, stating that effective August 1, 2016, you and your oldest child were newly eligible to enroll in the Essential Plan and your four younger children were eligible to enroll in a Child Health Plus plan.



Also on July, 9, 2016, NYSOH issued a notice, based on your July 8, 2016 plan selections, confirming your and your oldest child's enrollment in an Essential Plan and your four younger children's enrollment in a Child Health Plus plan, all effective August 1, 2016.

On August 10, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your and your oldest child's Essential Plan and your four younger children's Child Health Plus plan, insofar as your family's coverage began on August 1, 2016 and not July 1, 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 closed at the end of the hearing.

Findings of Fact

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

- 1) On March 25, 2016, you updated your family's application for financial assistance and your family's eligibility was pending receipt of proof of income by April 10, 2016.
- 2) You submitted proof of household income on April 15, 2016, May 2, 2016, May 4, 2016, May 13, 2016 and June 24, 2016. Specifically, on April 15, 2016, you uploaded 4 paystubs from your primary employer and two paystubs from your secondary employer and your two older children's four current paystubs; and on May 2, 2016, you uploaded your earnings statement for the month of January 2016 through April 2016 from your primary employer and three additional consecutive current paystubs from your secondary employer and four current consecutive paystubs for your oldest child (see Documents , and ).
- 3) Your proof of household income was invalidated by NYSOH based on these submissions.
- 4) On July 8, 2016, you reapplied for financial assistance and your family was re-determined fully eligible for health insurance, effective August 1, 2016.
- 5) You testified that you went for months without insurance because there were many mistakes made in telling you what proof of income was needed in order for your family to be determined eligible for health insurance.

- 6) You testified that you are seeking enrollment for your family beginning July 1, 2016 to avoid being exposed to an IRS tax penalty for not having health insurance coverage for the requisite number of months in 2016.

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)).

Child Health Plus Verification Process

A child who meets the eligibility requirements for CHP may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR § 155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR § 155.315(f) 42 CFR § 435.952).

Child Health Plus

The “period of eligibility” for CHP 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)).

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

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The State of New York has provided that a child's period of eligibility for CHP 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 issue under review is whether NYSOH properly determined that your family's eligibility for and enrollment in health insurance was effective August 1, 2016.

According to your NYSOH account, on March 25, 2016 you updated your family's application for financial assistance. On that day, your family's eligibility was pending receipt of proof of income by April 10, 2016.

You credibly testified that you went for months without insurance because there were many mistakes made in telling you what proof of income was needed in order for your family to be determined eligible for health insurance. Your NYSOH account confirms that, despite many attempts by you to supply sufficient proof of income to NYSOH, it was not properly validated. Instead, when you reapplied for financial assistance on July 8, 2016, your family was found fully eligible for health insurance without further submission of proof of income.

According to the credible evidence of record, on April 15, 2016, you uploaded 4 paystubs from your primary employer, two paystubs from your secondary employer and your two older children's four current paystubs. Your oldest child's documents were validated on April 19, 2016, and your and your other child's documents were invalidated on April 25, 2016 as being outdated. It is unclear as to why your children's documents were invalidated by NYSOH as outdated, as they were not outdated at the time they were submitted.

Nonetheless, the April 15, 2016 documentation was missing two paystubs from your secondary employer. However, on May 2, 2016, you rectified that situation by providing three additional paystubs from that employer. Therefore, your documentation should have been validated then so that you would have been able to select health plans for your family.

The date on which enrollment in an Essential Plan and a Child Health Plus plan can take effect depends on the day a person selects the plans for enrollment.

An Essential Plan and a Child Health Plus 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

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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.

Since you should have been able to select an Essential Plan and a Child Health Plan for you and your family as of May 2, 2016 had your household income been verified, your family's enrollment in those plans would properly take effect on the first day of the month following May 2016; that is, on June 1, 2016.

Therefore, the July 9, 2016 eligibility redetermination and enrollment confirmation notices stating that your and your oldest child's enrollment in the Essential Plan and your four younger children's enrollment in a Child Health Plus plan was effective August 1, 2016 are MODIFIED to state that your family's eligibility for and enrollment in their corresponding health plans are effective June 1, 2016.

Your case is RETURNED to NYSOH to facilitate your and your family's enrollment in their corresponding health plans, effective June 1, 2016, and to notify you accordingly.

Decision

The July 9, 2016 eligibility redetermination and enrollment confirmation notices stating that your and your oldest child's enrollment in the Essential Plan and your four younger children's enrollment in a CHP plan was effective August 1, 2016 are MODIFIED to state that your family's eligibility for and enrollment in their corresponding health plans are effective June 1, 2016.

Your case is RETURNED to NYSOH to facilitate your and your family's enrollment in your corresponding health plans, effective June 1, 2016, and to notify you accordingly.

Effective Date of this Decision: March 02, 2017

How this Decision Affects Your Eligibility

You submitted sufficient income documentation for the working members of your family as of May 2, 2016, and had your household's eligibility been redetermined before May 15, 2016, you would have been able to select and be enrolled in health plans with June 1, 2016 start dates.

Your case is being sent back to NYSOH to facilitate your and your oldest child's enrollment in your Essential Plan, effective June 1, 2016. NYSOH will notify you once this has been completed.

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Your case is being sent back to NYSOH to facilitate four younger children's enrollments in their Child Health Plus plan, effective June 1, 2016. NYSOH will notify you once this has been completed.

You will be responsible for any unpaid premiums for the months of June 2016 and July 2016, if applicable.

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

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Summary

The July 9, 2016 eligibility redetermination and enrollment confirmation notices stating that your and your oldest child's enrollment in the Essential Plan and your four younger children's enrollment in a CHP plan was effective August 1, 2016 are MODIFIED to state that your family's eligibility for and enrollment in their corresponding health plans are effective June 1, 2016.

Your case is RETURNED to NYSOH to facilitate your and your family's enrollment in your corresponding health plans, effective June 1, 2016, and to notify you accordingly.

You submitted sufficient income documentation for the working members of your family as of May 2, 2016, and had your household's eligibility been redetermined before May 15, 2016, you would have been able to select and be enrolled in health plans with June 1, 2016 start dates.

Your case is being sent back to NYSOH to facilitate your and your oldest child's enrollment in your Essential Plan, effective June 1, 2016. NYSOH will notify you once this has been completed.

Your case is being sent back to NYSOH to facilitate four younger children's enrollments in their Child Health Plus plan, effective June 1, 2016. NYSOH will notify you once this has been completed.

You will be responsible for any unpaid premiums for the months of June 2016 and July 2016, if applicable.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

