



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

Notice of Decision

Decision Date: February 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011431

[REDACTED]

Dear [REDACTED],

On January 4, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 11, 2016 eligibility determination notice and the August 13, 2016 enrollment 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.

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Decision

Decision Date: February 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011431

[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 eligibility for and enrollment in your Essential Plan was effective September 1, 2016?

Procedural History

On April 14, 2016, NYSOH issued a notice stating that it was time to renew your health insurance for the upcoming coverage year. The notice further 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, and that you needed to update your account between April 16, 2016 and May 15, 2016 or you might lose the financial assistance you were currently receiving.

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

On May 17, 2016, NYSOH issued an eligibility redetermination notice stating that you were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of 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. Your eligibility was to end May 31, 2016.

Also on May 17, 2016, NYSOH issued a disenrollment notice stating that your coverage in your Medicaid Managed Care (MMC) plan would end effective May 31, 2016. This was because you did not renew your health insurance coverage.

On May 25, 2016, NYSOH received your updated application for financial assistance with health insurance.

On May 26, 2016, NYSOH issued a notice, based on your May 25, 2016 update, stating that the income information you provided did not match what NYSOH obtained from federal and state data sources. The notice also stated that you must submit income documentation for your household by June 10, 2016 for your eligibility to be determined.

On June 2, 2016, you submitted income documentation, including four consecutive weekly paystubs from your employer, which was invalidated by NYSOH on June 6, 2016 (see Documents [REDACTED], [REDACTED], [REDACTED], and [REDACTED]).

On June 4, 2016, NYSOH issued a notice, based on your June 2, 2016 update, stating that the income information you provided does not match what NYSOH obtained from federal and state data sources. The notice also stated that you must submit income documentation for your household by June 19, 2016 to determine your eligibility.

On June 9, 2016, NYSOH issued a notice stating that, although you had submitted documentation, it was insufficient to resolve the inconsistency. The notice also stated that you must provide additional proof of income and third party health insurance.

On June 16, 2016, you submitted proof of third party health insurance, which was validated by NYSOH on June 21, 2016 (see Document [REDACTED]).

On June 22 and 28, 2016, NYSOH issued notices stating that the income information you provided does not match what NYSOH obtained from federal and state data sources. That notice also stated that you must submit income documentation for your household by July 7, 2016 and August 2, 2016 respectively so that your eligibility could be determined.

Also on June 28, 2016, NYSOH issued a notice, based on your June 16, 2016 update, stating that, although you had submitted documentation, it was insufficient to resolve the inconsistency in your income. The notice also stated that you must provide additional proof of income.

On July 1, 2016, NYSOH issued a notice, based on your June 30, 2016 updated application, stating that the income information you provided does not match what NYSOH obtained from federal and state data sources. The notice also stated that

you must submit income documentation for your household by August 2, 2016 to determine your eligibility.

On July 10, 2016, you submitted income documentation, including the four paystubs from your employer you had submitted on June 2, 2016, and a letter of termination from another employer, which documents were invalidated by NYSOH on July 15, 2016 (see Documents [REDACTED], [REDACTED], and [REDACTED]).

On July 16, 2016, NYSOH issued a notice, based on your July 10, 2016 update, stating that, although you had submitted documentation, it was insufficient to resolve the inconsistency in your income. The notice also stated that you must provide additional proof of income.

On August 5, 2016, you submitted income documentation, including four current consecutive paystubs from your current employer, which documentation was validated by NYSOH on August 10, 2016 (see Documents [REDACTED], [REDACTED], [REDACTED], and [REDACTED]).

On August 11, 2016, NYSOH issued an eligibility determination notice, based on your August 10, 2016 updated application, stating that you were eligible to enroll in the Essential Plan, effective September 1, 2016.

On August 12, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential Plan insofar as it did not begin on August 1, 2016.

On August 13, 2016, NYSOH issued an enrollment confirmation notice, based on your August 12, 2016 plan selection, stating that you were enrolled in the Essential Plan, with an enrollment start date of September 1, 2016.

On January 4, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your request to amend your appeal to backdate your Essential Plan coverage to June 2016 as granted by the Hearing Officer and testimony was received on that amended appeal. The record was fully 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) You were determined eligible for Medicaid on June 18, 2015, with an effective date of June 1, 2015.
- 2) You receive all of your notices by regular mail.

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- 3) You testified that you did receive your notice to renew dated April 14, 2016, but “disregarded” it. According to your NYSOH account, you did not update your application until May 25, 2016, at which time your eligibility was pending submission of income documents.
- 4) You testified that you did receive the notices in the mail telling you that you needed to submit proof of income and that your third party health insurance had terminated to confirm your Essential Plan eligibility.
- 5) You further testified you were confused about what you needed to send in and, although you called numerous times, the documentation you sent in was never sufficient.
- 6) According to your NYSOH account, you submitted proof of income on June 2, 2016, June 16, 2016, July 10, 2016 and August 5, 2016. Specifically, on June 2, 2016, you submitted four weekly consecutive paystubs from your current employer, on June 16, 2016, you submitted proof of third party health insurance, and on July 10, 2016, you submitted proof of termination of employment from another employer. These documents were validated by NYSOH on August 10, 2016 and you enrolled in an Essential Plan that day, with coverage to begin September 1, 2016.
- 7) According to your NYSOH account, you were unable to enroll earlier because your proof of income and third party health insurance was not validated by NYSOH until August 10, 2016.
- 8) You testified that you are seeking to have coverage in the Essential Plan begin on June 1, 2016 because you have medical and prescription bills from June 2016, July 2016 and August 2016.

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

Applicable Law and Regulations

Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every twelve 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,

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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)).

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

Medicaid Managed Care (MMC) plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H(6)(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019, N.Y. Soc. Serv. Law §364-j(1)(c); 18 NYCRR § 360-10.3(h)).

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 issue under review is whether NYSOH properly determined that your eligibility for and enrollment in your Essential Plan was effective September 1, 2016.

You were originally found eligible for Medicaid effective June 1, 2015.

Generally, NYSOH will re-determine a qualified individual's eligibility for the Medicaid 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 April 14, 2016 renewal notice stated that there was not enough information to determine whether you were eligible to continue your financial assistance for health insurance, and that you needed to provide additional information between April 16, 2016 and May 15, 2016, or your financial assistance might end.

Because there was no timely response to this notice, you were terminated from your MMC Plan effective May 31, 2015.

You testified that you did receive the renewal notice from NYSOH telling you that you needed to update the information in your NYSOH account. You testified that you “disregarded” that notice.

Therefore, the record reflects that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated in order to ensure your enrollment in your health plan and eligibility for financial assistance would continue.

As a result of failing to renew in a timely basis, your Medicaid Managed Care plan ended effective May 31, 2016.

The record shows that on May 25, 2016 you updated the information in your NYSOH account, but more information regarding your income was needed to confirm your eligibility.

On May 26, 2016, NYSOH issued a notice stating that the income information you provided did not match what NYSOH obtained from federal and data sources. That notice also stated that you must submit income documentation for your household by June 10, 2016 for your eligibility to be determined.

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.

You testified that you did receive the notices in the mail telling you that you needed to submit proof of income and your third party health insurance to confirm your Essential Plan eligibility. You also testified you were confused about what was needed to be sent in and, although you called numerous times, the documentation you sent in was never sufficient.

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.

Generally, the date on which the Essential Plan can take effect depends on the day a person selects the plan for enrollment, which in your case was August 10, 2016.

However, according to your NYSOH account, you submitted proof of income on June 2, 2016, June 16, 2016, July 10, 2016 and August 5, 2016. Specifically, on

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June 2, 2016, you submitted four weekly consecutive paystubs from your current employer, on June 16, 2016, you submitted proof of third party health insurance, and on July 10, 2016, you submitted proof of termination of employment from your other employer. These documents were validated by NYSOH on August 10, 2016 and you enrolled in an Essential Plan that day.

Although NYSOH already received four weeks of consecutive paystubs from your current employer, your letter of termination of employment from your other employer, and proof of third party health insurance by July 10, 2016, they invalidated that income on July 15, 2016 and requested additional proof of income. On August 5, 2016, you submitted an additional four current paystubs from your current employer, which was validated on August 10, 2016.

NYSOH's requirement for you to provide an additional four current and consecutive paystubs was excessive because you had already provided sufficient paystubs from that employer on June 2, 2016. Since your income should have been validated on July 15, 2016 rather than invalidated, it must be assumed that you could have chosen a plan on that day.

The date on which the 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 after the fifteenth day of a month goes into effect on the first day of the second following month.

Since you could have selected your Essential Plan on July 15, 2016, it must take effect on the first day of the following after July 2016; that is, on August 1, 2016.

Therefore, the August 11, 2016 eligibility redetermination notice is MODIFIED to reflect that you were eligible to enroll in the Essential Plan, effective August 1, 2016.

The August 13, 2016 enrollment confirmation notice is MODIFIED to reflect your Essential Plan was effective August 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above.

Decision

The August 11, 2016 eligibility redetermination notice is MODIFIED to reflect that you were eligible to enroll in the Essential Plan, effective August 1, 2016.

The August 13, 2016 enrollment confirmation notice is MODIFIED to reflect your Essential Plan was effective August 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above and to notify you accordingly.

Effective Date of this Decision: February 22, 2017

How this Decision Affects Your Eligibility

The effective date of your Essential Health Plan is August 1, 2016. NYSOH will notify you once this has been completed.

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

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- By mail at:
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- By fax: 1-855-900-5557

Summary

The August 11, 2016 eligibility redetermination notice is MODIFIED to reflect that you were eligible to enroll in the Essential Plan, effective August 1, 2016.

The August 13, 2016 enrollment confirmation notice is MODIFIED to reflect your Essential Plan was effective August 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above and to notify you accordingly.

The effective date of your Essential Health Plan is August 1, 2016. NYSOH will notify you once this has been completed.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

