



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

## Notice of Decision

Decision Date: January 13, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011436

[REDACTED]

[REDACTED]

On December 28, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 13, 2015 disenrollment 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 at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(b).

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

Decision Date: January 13, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011436

[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Was your appeal of the NY State of Health's (NYSOH) December 13, 2015 disenrollment notice timely?

## Procedural History

On October 22, 2015, NYSOH issued a renewal notice, stating that it was time to renew your health insurance for the upcoming coverage year. That notice 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 by December 15, 2015, or you might lose the financial assistance you were currently receiving.

On December 12, 2015, you updated your NYSOH account, and uploaded documentation to your NYSOH account.

On December 13, 2015, NYSOH issued a notice stating that your December 12, 2015 application had been reviewed, but that more information was needed. The notice stating that you needed to submit documentation of your income by December 28, 2015.

Also on December 13, 2015, NYSOH issued a notice of disenrollment, stating that your enrollment in your Medicaid Managed Care plan would end effective December 31, 2015.

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On December 18, 2015, NYSOH issued a notice stating that the documentation you submitted had been reviewed, but that it was insufficient to resolve the request. The notice directed you to submit proof of your income so that an eligibility determination could be made.

No further documentation was uploaded to your account.

On June 22, 2016, you updated your NYSOH account.

On June 24, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective August 1, 2016.

Also on June 24, 2016, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Essential Plan, with an enrollment start date of August 1, 2016.

On August 13, 2016, you spoke with NYSOH's Account Review Unit, and appealed the December 13, 2015 disenrollment notice, insofar as you wanted Medicaid coverage for the month of January 2016.

On December 28, 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) You testified that you are seeking to have your Medicaid coverage reinstated for the month of January 2016 because you have an unpaid medical bill from that month.
- 2) You testified that you knew that your 2015 Medicaid coverage was ending on December 31, 2015.
- 3) You testified, and your NYSOH account confirms, that you updated your application and uploaded income documentation on December 12, 2015.
- 4) You testified that you are self-employed, and so you uploaded records of the jobs you had done, including screen shots of your bank account, and copies of checks from clients.
- 5) You testified that you had provided similar documentation previously, and that it was accepted by NYSOH.

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- 6) You testified that you did receive NYSOH's notification that more income information was needed, and a notice indicating that your insurance coverage was ending. However, you testified that you were traveling during the month of December for the holidays, and didn't see the notices until after December 2015. You further testified that someone else was checking your mail while you were away, so you are not sure if you saw every notice that was sent.
- 7) You testified that you had a medical appointment in early January 2016, and so, even if you had seen the notices, you would not have been able to do anything in time for your appointment to be covered.
- 8) You testified that you became aware that there might be a problem with your insurance coverage when you got a bill for your January 2016 medical appointment. You testified that you gave the hospital your insurance information, and asked them to submit the bill.
- 9) You testified that it took a while for you to update your application for medical insurance with NYSOH because you were waiting to hear back from the hospital about whether you had coverage.
- 10) Your NYSOH account reflects that you first updated your application on June 22, 2016.
- 11) You testified that you do not recall receiving the March 12, 2016 notice which stated that you were now eligible for a full cost qualified health plan.
- 12) You testified, and your NYSOH account confirms, that you received notices from NYSOH by regular mail.
- 13) No notices sent to you by NYSOH have been returned as undeliverable.
- 14) Other than your December 12, 2015 application update, there is no application in 2016 requesting retroactive Medicaid coverage for January 2016.
- 15) You testified that you did not file your appeal until August 2016 because you viewed the money you had to spend on the January 2016 medical bill as a lost cause, but then, after you spoke with a representative, found out that you could file an appeal to try to get Medicaid for January so that the bill would be paid.
- 16) You testified that you felt that you did everything you were supposed to do and tried to supply extra documentation, and still ended up getting cut off from your insurance.

17) The record indicates that you first contacted NYSOH to request Medicaid coverage for January 2016 on August 13, 2016, and that you filed a formal appeal that same day.

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

## **Applicable Law and Regulations**

### Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505, 45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(1)).

## **Legal Analysis**

The only issue under review is whether your appeal of NYSOH's December 13, 2015 disenrollment notice was timely.

On December 13, 2015, after you updated your NYSOH account, NYSOH issued a disenrollment notice stating that your 2015 Medicaid Managed Care plan coverage was ending on December 31, 2015. You testified that you were aware that your 2015 coverage was coming to an end, which was why you updated your NYSOH account and uploaded income documentation that you thought would be sufficient to support your application for 2016 financial assistance. You further testified that you know that NYSOH subsequently sent a notice informing you that more information was needed, but that you were traveling during December 2015 for the holidays, and didn't see any of the December notices until after December 31, 2015.

The record reflects that the first time you called NYSOH to file a complaint with regard to the fact that you did not have Medicaid coverage in the month of January 2016 was on August 13, 2016. The record indicates that a formal appeal was filed on your behalf on that day.

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Individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of the termination of your enrollment in your Medicaid Managed Care plan coverage, as stated in the December 13, 2015 notice, an appeal should have been filed by February 11, 2016. According to the credible evidence in the record, you did not contact NYSOH until August 13, 2016 to file a formal appeal, which is well beyond 60 days from the December 13, 2015 disenrollment notice.

You testified that you do not believe it was fair that your income documentation was not accepted in December 2015, and that you did not see the notices regarding that documentation until at least January 2016, because you were traveling. However, the record contains no indication that you ever contacted NYSOH regarding your January 2016 insurance coverage at any point prior to your appeal request, and that the first time you updated your application was in June 2016. Even if you had requested retroactive Medicaid at that time, which you did not, you would only have been eligible to request it for the prior three months, or from March 1, 2016. The record is void of any application for January 2016 Medicaid coverage, other than your December 12, 2015 application update.

That you did not file an appeal until August 13, 2016 was a result of your decision to wait until you heard back from the hospital regarding your January 2016 bill. Moreover, you acknowledged in your testimony that you were going to accept the fact that you did not have coverage in January 2016, until you spoke to someone in August 2016 who gave you the idea that you could file an appeal. Regardless, there is no evidence that there was any impediment that would have prevented you from addressing the issue of your January 2016 coverage with NYSOH in a timely manner, thus the decision to wait until August to file an appeal was your own.

Therefore, there has been no timely appeal of the December 13, 2015 disenrollment notice, and your appeal on the issue of Medicaid coverage in the month of January 2016 **DISMISSED**.

## **Decision**

Your appeal of the December 13, 2015 disenrollment notice is untimely and is **DISMISSED**.

**Effective Date of this Decision:** January 13, 2017

## **How this Decision Affects Your Eligibility**

Your 2015 Medicaid coverage ended on December 31, 2015.

You did not have coverage through NYSOH in the month of January 2016, and your appeal of this issue was untimely.

## **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 after the date 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 date 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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## **Summary**

Your appeal of the December 13, 2015 disenrollment notice is untimely and is DISMISSED.

Your 2015 Medicaid coverage ended on December 31, 2015.

You did not have coverage through NYSOH in the month of January 2016, and your appeal of this issue was untimely.

## **Legal Authority**

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

**A Copy of this Decision Has Been Provided To:**

