



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

Notice of Decision

Decision Date: December 23, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011617

[REDACTED]

Dear [REDACTED],

On December 13, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health’s July 6, 2016 eligibility redetermination notice and August 17, 2016 enrollment confirmation 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: December 23, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011617

[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 you were no longer eligible to remain enrolled in your Essential Plan 2, due to having Third Party Health Insurance (TPHI), effective August 1, 2016?

Procedural History

On March 11, 2016, NYSOH received your updated application for health insurance.

On March 12, 2016, NYSOH issued an eligibility determination notice, based on your March 11, 2016 updated application, stating you were eligible to enroll in the Essential Plan with no monthly premium, effective April 1, 2016. The determination was based on your attested household income of \$16,828.00.

Also on March 12, 2016, NYSOH issued an enrollment confirmation notice, based on your March 11, 2016 plan selection, stating that you were enrolled in the Essential Plan 2 with no monthly premium, effective April 1, 2016.

On July 5, 2016, NYSOH re-ran your eligibility for financial assistance.

On July 6, 2016, NYSOH issued an eligibility redetermination notice, based on the July 5, 2016 system re-run, stating that you no longer qualified to enroll through NY State of Health, because sources show you were receiving TPHI. Therefore, your eligibility would end effective August 1, 2016.

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Also on July 6, 2016, NYSOH issued a disenrollment notice, based on the July 5, 2016 system re-run, stating that your Essential Plan ended effective July 31, 2016. This was because records showed you had other health insurance or Medicare.

On August 16, 2016, you updated your NYSOH account and selected a health plan.

On August 17, 2016, NYSOH issued an enrollment confirmation notice, based upon your August 16, 2016 plan selection, confirming your enrollment in the Essential Plan 2 with no monthly premium, effective October 1, 2016.

On August 18, 2016, NYSOH received your uploaded documentation showing the end date of your TPHI with United Healthcare Oxford plan, effective March 31, 2007 (see Document: [REDACTED]).

On August 22, 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 August 1, 2016.

On December 13, 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 you are seeking reinstatement in your Essential Plan 2 effective August 1, 2016 because you have medical expenses from that month which were not covered by insurance.
- 2) According to your NYSOH account, you enrolled in an Essential Plan 2 on March 11, 2016.
- 3) According to your NYSOH account, you have had seamless health insurance coverage through NYSOH from January 1, 2014 until July 31, 2016.
- 4) According to your NYSOH account, you were disenrolled from your Essential Plan 2, effective July 31, 2016, and were not re-enrolled back into your Essential Plan until October 1, 2016, resulting in a gap in coverage from August 1, 2016 until September 30, 2016.

- 5) You testified you did not receive notice that you were about to lose your health coverage. Although you received a notice in your email stating that you had documents in your account to review, you didn't realize they were important, so you never read the documents.
- 6) You testified that you realized you did not have health insurance in August 2016 when you visited your doctor who tried to get authorization for medical testing for you that was denied.
- 7) You provided proof of your group health plan's termination to NYSOH on August 18, 2016. The letter shows the last day of that plan was effective March 31, 2007 (see Document: [REDACTED]).

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

Applicable Law and Regulations

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).

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 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

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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)).

Legal Analysis

The only issue is whether NYSOH properly determined you were no longer eligible to remain enrolled in your Essential Plan 2 due to having TPHI.

On March 11, 2016, NYSOH received your updated application for health insurance. As a result, you were found eligible for the Essential Plan 2 with no monthly premium and were enrolled in an Essential Plan effective April 1, 2016.

NYSOH must generally determine an applicant eligible for the Essential Plan if the individual is not otherwise eligible for minimum essential coverage except through the individual market.

Information in the record indicates that NYSOH's system re-ran your eligibility on July 5, 2016, and that the system allegedly detected that you had other health insurance coverage. As a result, you were terminated from your Essential Plan as of July 31, 2016.

On July 6, 2016, an eligibility redetermination notice was issued stating that you no longer qualified to enroll through NYSOH, because sources show you were receiving TPHI.

Although NYSOH issued an eligibility redetermination notice on July 6, 2016, you testified that you never received this notice because you never went online to your NYSOH account to review your documents. You provided proof of your group health plan's termination to NYSOH on August 18, 2016, after you visited your doctor and were denied authorization to have medical testing performed. The letter shows the last day of coverage with United Healthcare Oxford plan was effective March 31, 2007 (see Document: [REDACTED]).

According to your NYSOH account, you have had seamless insurance coverage through NYSOH since January 1, 2014 until July 31, 2016. The fact that you were required to show proof of having been disenrolled from your group qualified health plan, a plan which terminated on March 31, 2007, before the existence of NYSOH and after you have remained eligible for insurance through NYSOH since January 1, 2014, permits the conclusion that the disenrollment from your Essential Plan 2 was improper.

Therefore, the July 6, 2016 eligibility redetermination notice is **RESCINDED**.

The August 17, 2016 enrollment confirmation notice is MODIFIED to reflect your Essential Plan 2 was effective August 1, 2016.

Your case is RETURNED to NYSOH to reinstate your Essential Plan 2 coverage to be made effective August 1, 2016, and to notify you accordingly.

Decision

The July 6, 2016 eligibility redetermination notice is RESCINDED.

The August 17, 2016 enrollment confirmation notice is MODIFIED to reflect your Essential Plan 2 was effective August 1, 2016.

Your case is RETURNED to NYSOH to reinstate your Essential Plan 2 coverage to be made effective August 1, 2016, and to notify you accordingly.

Effective Date of this Decision: December 23, 2016

How this Decision Affects Your Eligibility

You were improperly disenrolled from your Essential Plan.

Your case is being sent back to NYSOH to reinstate coverage in your Essential Plan, effective 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)).

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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 fax: 1-855-900-5557

Summary

Therefore, the July 6, 2016 eligibility redetermination notice is **RESCINDED**.

The August 17, 2016 enrollment confirmation notice is **MODIFIED** to reflect your Essential Plan 2 was effective August 1, 2016.

Your case is **RETURNED** to NYSOH to reinstate your Essential Plan 2 coverage to be made effective August 1, 2016, and to notify you accordingly.

You were improperly disenrolled from your Essential Plan.

Your case is being sent back to NYSOH to reinstate coverage in your Essential Plan, effective 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:

