



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

Notice of Decision

Decision Date: February 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011778

[REDACTED]

Dear [REDACTED],

On January 12, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 27, 2016 eligibility determination and July 27, 2016 disenrollment 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 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

Decision Date: February 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011778

[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 you were no longer eligible to enroll in coverage through an Essential Plan as of July 27, 2016?

Procedural History

On April 22, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan for a limited time effective as of June 1, 2016. The notice directed you to submit income documentation before July 20, 2016, to confirm your eligibility.

Also on April 22, 2016, NYSOH issued an enrollment notice confirming as of April 21, 2016, you were enrolled in an Essential Plan with an enrollment start date of June 1, 2016. The notice directed you to submit income documentation before July 20, 2016, to confirm your eligibility.

On July 20, 2016, income documentation was uploaded to your NYSOH account ([REDACTED]).

On July 26, 2016, NYSOH redetermined your eligibility for financial assistance.

On July 27, 2016, NYSOH issued an eligibility determination notice stating, in relevant part, that you were eligible to receive up to \$151.00 of advance premium tax credit and not eligible to enroll in an Essential Plan because your income exceeded the annual income threshold.

Also on July 27, 2016, NYSOH issued a disenrollment notice stating that your Essential Plan would end August 31, 2016.

On August 2, 2016, NYSOH redetermined your eligibility for financial assistance.

On August 3, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan effective as of September 1, 2016.

On August 25, 2016, NYSOH issued an enrollment notice confirming that as of August 24, 2016, you were enrolled in an Essential Plan with an enrollment start date of October 1, 2016.

On August 30, 2016, an appeal was requested on your behalf insofar as not being enrolled in an Essential Plan in September 2016.

On January 12, 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 support the following findings of fact:

- 1) You are seeking health insurance through NYSOH for yourself.
- 2) According to your NYSOH account, you expect to file your 2016 federal income tax return, with tax status of single, and do not expect to claim any dependents on that return.
- 3) You were determined conditionally eligible to receive and was enrolled in an Essential Plan effective June 1, 2016.
- 4) On July 20, 2016, an "Income and Expense Report" was uploaded to your NYSOH account ([REDACTED]). The report reflects that your monthly gross income and total expenses were as follows:
 - (a) January 2016: \$3,708.00, \$1,720.00;
 - (b) February 2016: \$3,288.00, \$1,520.00;
 - (c) March 2016: \$3,087.00, \$1,520.00;
 - (d) April 2016: \$3,708.00, \$1,720.00;
 - (e) May 2016: \$3,288.00; \$1,520.00;
 - (f) June 2016: \$3,087.00; \$1,520.00;
 - (e) July 2016; \$3,708.00; \$1,720.00.

- 5) On July 26, 2016, NYSOH recalculated your annual household income to be \$40,332.00 and redetermined your eligibility for financial assistance based on that calculation.
- 6) On July 27, 2016, you were determined eligible to receive up to \$151.00 of Advance Premium Tax Credits and not eligible to enroll in the Essential Plan.
- 7) You were disenrolled from your Essential Plan effective August 31, 2016.
- 8) Your account reflects that on August 2, 2016, NYSOH updated your annual income from \$40,332.00 to \$21,292.00 “due to improper calculation.”
- 9) You testified that you are seeking to have your Essential Plan coverage reinstated for September 2016 to cover any medical expenses that were incurred.

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

Applicable Law and Regulations

Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, deductions that are attributable to a trade or business may be deductions from a taxpayers adjusted gross income (26 USC § 62 (a)(1)).

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

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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).

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow the NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i)). 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 §600.345 (a)) See also New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

Legal Analysis

The issue under review is where NYSOH properly determined that you were no longer eligible to enroll in coverage through an Essential Plan as of July 27, 2016

You were initially determined eligible to enroll in an Essential Plan for a limited time and was enrolled in an Essential Plan effective June 1, 2016. You were directed to provide additional documentation by July 20, 2016, in order to confirm that the information that you had provided was accurate.

When NYSOH cannot verify information that is required to make an eligibility determination, it must notify the applicant and allow the applicant time to submit satisfactory documentation.

On July 20, 2016, an Income and Expense Report was uploaded to your NYSOH account to satisfy NYSOH's request for additional income documentation. Using the documentation that was uploaded, NYSOH calculated your annual household income to be \$40,332.00. Based on that calculation, NYSOH determined that you were no longer eligible to enroll in an Essential Plan and, you were disenrolled from your health plan.

A review of the income documentation uploaded to your account supports that NYSOH calculated your annual household income without deducting the business expenses listed in the report. On August 2, 2016, NYSOH acknowledged their previous calculation was improper and recalculated your annual household to be \$21,292.00. Based on that calculation you were redetermined eligible to enroll in the Essential Plan.

Since the July 27, 2016 determination was based on an annual household income amount that was not reflective of the information contained in your account, it was issued in error and must be RESCINDED.

The July 27, 2016, disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your Essential Plan health coverage effective September 1, 2016.

Decision

The July 27, 2016, eligibility determination is RESCINDED.

The July 27, 2016, disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your Essential Plan health coverage effective September 1, 2016.

Effective Date of this Decision: February 10, 2017

How this Decision Affects Your Eligibility

Your case has been returned to NYSOH to reinstate your Essential Plan coverage for the month of September 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 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

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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
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The July 27, 2016, eligibility determination is RESCINDED.

The July 27, 2016, disenrollment notice is RESCINDED.

Your case has been returned to NYSOH to reinstate your Essential Plan coverage for the month of September 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

