



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

Notice of Decision

Decision Date: January 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011833

[REDACTED]

[REDACTED]

On December 2, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's September 2, 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 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: January 30, 2017

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000011833



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 enrollment in an Essential Plan was effective October 1, 2016?

Procedural History

On August 25, 2016, you created your account with NYSOH.

On September 1, 2016, you updated your and your spouse's application for health insurance.

On September 1, 2016, NYSOH prepared a preliminary eligibility determination that stated you and your spouse were eligible to enroll in the Essential Plan, effective October 1, 2016.

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

On September 2, 2016, NYSOH issued an eligibility determination notice based on the September 1, 2016 application. The notice stated that you and your spouse were eligible to enroll in the Essential Plan, at \$0.00 per month each, effective October 1, 2016.

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Also on September 2, 2016, NYSOH issued a notice of enrollment, based on your plan selection on September 1, 2016, stating that you and your spouse were enrolled in an Essential Plan, and that the plan would start October 1, 2016.

On December 2, 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 received a letter from the Steuben County Department of Social Services stating that you and your spouse would not be eligible for renewal of Medicaid coverage and that coverage through Medicaid would terminate on August 31, 2016.
- 2) According to your NYSOH account and your testimony, you set up an account with NYSOH on August 25, 2016.
- 3) According to your NYSOH account, the August 31, 2016 end date of your and your spouse's Medicaid coverage was confirmed on August 25, 2016 at 03:55:59 PM.
- 4) You testified that, on August 25, 2016, you attempted to submit an application for health insurance for you and your spouse with NYSOH through the website but the system would not let you continue through to the end of the application process.
- 5) You testified that on August 25, 2016, you called NYSOH and a representative told you that you could not apply for health insurance until September 1, 2016 after your Medicaid coverage had ended.
- 6) According to your NYSOH account and your testimony, on September 1, 2016, you contacted NYSOH by phone and completed the application for financial assistance.
- 7) According to your NYSOH account and your testimony, you and your spouse enrolled in an Essential Plan on September 1, 2016.
- 8) According to your NYSOH account and your testimony, you are applying for health insurance for you and your spouse only. You testified and your account reflects that you are not applying for health insurance for your child.

- 9) According to your NYSOH account and your testimony, you will file taxes as married filing jointly. You will claim one dependent on your taxes.
- 10) According to your NYSOH account and your testimony, your household income is \$30,000.00 which consists of wages you earn. You confirmed this amount as accurate.
- 11) You testified that you wanted your and your spouse's enrollment in an Essential Plan to begin on September 1, 2016 because both you and your spouse had to pay for medications for the month of September 2016 during the gap in insurance coverage.

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

Applicable Law and Regulations

Enrollment in a Qualified Health Plan

NY State of Health (NYSOH) must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR §155.410(a)(1)).

For the benefit year beginning on January 1, 2016, the annual open enrollment period began on November 1, 2015, and extended through January 31, 2016 (45 CFR §155.410(e)(2)).

Special Enrollment Periods

After each open enrollment period ends, NYSOH provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP, and an enrollee may change their enrollment to another plan. This is generally permitted when one of several listed triggering events occur, such as when

- (1) The qualified individual or his or her dependent involuntarily loses certain health insurance coverage:
 - (a) Health insurance considered to be minimum essential coverage;
 - (b) Enrolled in any non-calendar year health insurance policy, even if they have the option to renew the expiring non-calendar year individual health insurance policy; or
 - (c) Pregnancy-related coverage; or

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(d) Medically needy coverage.

(45 CFR § 155.420(d)).

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to select a QHP (45 CFR § 155.420(c)(1)).

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 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)).

Special Effective Dates

For individuals who involuntarily lose minimum essential coverage due to a triggering life event listed in (45 CFR §155.4210(d)(1)) and if their new plan selection is made on or before the day of the triggering event, NYSOH must ensure that the coverage effective date is on the first day of the month following the date of the triggering event. If the plan selection is made after the date of the triggering event, NYSOH must ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the 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)).

(45 CFR § 155.420(b)(2)(iv)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse's enrollment in the Essential Plan was effective October 1, 2016.

You testified that you were advised by letter from the local Department of Social Services of Steuben County that you and your spouse's Medicaid coverage would end on August 31, 2016.

You testified that on August 25, 2016, you set up an account with NYSOH with the intention of applying for health insurance coverage for you and your spouse that would start immediately after your Medicaid coverage ended August 31, 2016.

You testified that, on August 25, 2016, while completing the application on the NYSOH website, you reached a point where the system would not allow you to proceed further so you called and spoke with a NYSOH representative.

According to your NYSOH account, on August 25, 2016 at 03:55:59 PM, the system confirmed that you and your spouse were enrolled in Medicaid and that this coverage would expire on August 31, 2016.

You testified that, during the August 25, 2016 phone conversation, the NYSOH representative stated you would be unable to apply for health insurance until the Medicaid coverage completely ended and that you should return to NYSOH on September 1, 2016 to complete your application.

You testified, and the record indicates, that you submitted your NYSOH application on September 1, 2016. As a result, you and your spouse were found eligible for the Essential Plan effective October 1, 2016 and enrolled into a plan that day.

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

Generally, 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 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.

However, the record reflects that you and your spouse involuntarily lost your minimum essential coverage through Medicaid that was provided by the Steuben County Department of Social Services on August 31, 2016.

On August 25, 2016, you attempted to complete and submit your application for health insurance through NYSOH but the system would not let you complete the

application. You called and spoke with a NYSOH representative on that date and you were mistakenly informed that you could not submit an application until your coverage through Medicaid had completely ended. Had you been allowed and assisted by the NYSOH representative to complete and submit your and your spouse's application for health insurance on August 25, 2016, the special effective dates as set forth in 45 CFR § 155.420(b)(2)(iv) would applied. If you had been allowed to make your plan selection prior to the triggering event of involuntary loss of minimum essential coverage on August 31, 2016, your Essential Plan coverage effective date would have been the first day of the month following the date of the triggering event, which would have been September 1, 2016.

Therefore, the September 2, 2016 eligibility determination notice is MODIFIED to state that, effective September 1, 2016, you and your spouse are eligible to enroll in the Essential Plan with a monthly premium of \$0.00 each and the September 2, 2016 notice of enrollment is MODIFIED to stating that your and your spouse's enrollment in an Essential Plan is effective September 1, 2016.

Decision

The September 2, 2016 notice of eligibility determination is MODIFIED to state that, effective September 1, 2016, you and your spouse are eligible to enroll in the Essential Plan with a monthly premium of \$0.00 each.

The September 2, 2016 notice of enrollment is MODIFIED to state that your and your spouse's enrollment in an Essential Plan is effective September 1, 2016.

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

Effective Date of this Decision: January 30, 2017

How this Decision Affects Your Eligibility

Your and your spouse's enrollment in the Essential Plan should have begun as of September 1, 2016.

Your case is being sent back to NYSOH to change the effective date of eligibility for and enrollment in your Essential Plan to September 1, 2016, and to notify you once this has been done.

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

Summary

The September 2, 2016 notice of eligibility determination is MODIFIED to state that, effective September 1, 2016, you and your spouse are eligible to enroll in the Essential Plan with a monthly premium of \$0.00 each.

The September 2, 2016 notice of enrollment is MODIFIED to state that your and your spouse's enrollment in an Essential Plan is effective September 1, 2016.

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

Your and your spouse's enrollment in the Essential Plan should have begun as of September 1, 2016.

Your case is being sent back to NYSOH to change the effective date of eligibility for and enrollment in your Essential Plan to September 1, 2016, and to notify you once this has been done.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

