



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

Notice of Decision

Decision Date: December 20, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011906

[REDACTED]

Dear [REDACTED],

On December 6, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's July 5, 2016 eligibility redetermination notice and August 24, 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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Decision

Decision Date: December 20, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011906



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 effective August 1, 2016?

Procedural History

On February 1, 2016, NYSOH received your updated application for health insurance.

On February 2, 2016, NYSOH issued an eligibility determination notice based on your last application stating you were eligible to enroll in the Essential Plan with a monthly premium of \$0.00 per month effective March 1, 2016. The determination was based on your attested household income of \$23,000.00.

On February 5, 2016, an enrollment confirmation notice was issued confirming your enrollment in the Essential Plan 2 with vision and dental for a premium of \$30.66 per month. This eligibility was effective March 1, 2016.

On July 5, 2016, an eligibility redetermination notice was issued finding you no longer qualified to enroll through NY State of Health, because sources show you were receiving TPHI (Third Party Health Insurance). Therefore your eligibility would end effective August 1, 2016.

On August 24, 2016, NYSOH issued an enrollment confirmation notice confirming your enrollment in the Essential Plan 2 effective October 1, 2016.

On September 7, 2016, NYSOH received your uploaded documentation showing the end date of your Third Party Health Insurance with Empire BlueCross BlueShield Platinum plan effective February 1, 2016. (See Document: [REDACTED])

Also on September 7, 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 September 1, 2016.

On December 6, 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 September 1, 2016. However, you also have medical costs for the months of February and March 2016 which were not covered by insurance.
- 2) You testified, and the record reflects you enrolled in an Essential Plan 2 on February 4, 2016.
- 3) The record supports you were disenrolled from your Essential Plan 2 effective March 1, 2016, for having Third Party Health Insurance, despite the July 5, 2016 notice stating your Essential Plan 2 would end effective July 31, 2016.
- 4) You testified you did not receive the July 5, 2016, eligibility redetermination notice finding you no longer qualified to remain enrolled in your Essential Plan 2 because sources show you were receiving TPHI (Third Party Health Insurance), terminating it effective August 1, 2016.
- 5) You provided proof of your Platinum level qualified health plan's termination to NYSOH on September 7, 2016. The letter shows the last day of that plan was effective February 1, 2016. (See Document: [REDACTED])

- 6) Your NYSOH account shows you were terminated from your Platinum Level qualified health plan effective January 31, 2016.

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 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 Third Party Health Insurance.

On February 1, 2016, NYSOH received your updated application for health insurance. As a result, you were found eligible for the Essential Plan 2 and were enrolled in plan effective March 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.

On July 5, 2016, an eligibility redetermination notice was issued stating that you no longer qualified to enroll through NYSOH, because sources show you were receiving TPHI (Third Party Health Insurance).

You testified you never received this determination notice, and did not know you had to show proof of your prior enrollment in a qualified health plan.

You provided proof of your Platinum level qualified health plan's termination to NYSOH on September 7, 2016, after filing an incident with NYSOH. The letter shows the last day of coverage with Empire Blue Cross Blue Shield Platinum plan was effective February 1, 2016. (See Document: [REDACTED])

The fact that you were required to show proof of having been disenrolled from your Platinum level qualified health plan, a plan which was offered through NYSOH and not outside of the individual marketplace makes the disenrollment from your Essential Plan 2 improper.

Therefore, the July 5, 2016 eligibility redetermination notice is RESCINDED.

The August 24, 2016 enrollment confirmation notice is MODIFIED to reflect your Essential Plan 2 was effective March 1, 2016.

Your case is RETURNED to NYSOH to reinstate your Essential Plan 2 coverage effective March 1, 2016.

Decision

The July 5, 2016 eligibility redetermination notice is RESCINDED.

The August 24, 2016 enrollment confirmation notice is MODIFIED to reflect your Essential Plan 2 was effective March 1, 2016.

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).

Your case is RETURNED to NYSOH to reinstate your Essential Plan 2 coverage effective March 1, 2016.

Effective Date of this Decision: December 20, 2016

How this Decision Affects Your Eligibility

You were improperly disenrolled from your Essential Plan.

The effective date of your Essential Health Plan 2, is March 1, 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 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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NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The July 5, 2016, eligibility redetermination notice is RESCINDED.

The August 24, 2016, enrollment confirmation notice is MODIFIED to reflect your Essential Plan 2 was effective March 1, 2016.

Your case is RETURNED to NYSOH to reinstate your Essential Plan 2 coverage effective March 1, 2016.

You were improperly disenrolled from your Essential Plan.

The effective date of your Essential Health Plan 2, is March 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

