



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

Notice of Decision

Decision Date: January 11, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011986

[REDACTED]

[REDACTED]

On December 16, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's August 23, 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.

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Decision

Decision Date: January 11, 2017

NY State of Health Account ID: [REDACTED]
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Issue

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

Did NY State of Health properly determine that you and your spouse's enrollment in your Essential Plans was effective October 1, 2016?

Procedural History

On August 8, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your August 7, 2015 updated application, stating that you and your spouse were eligible for Medicaid, effective September 1, 2015.

Also on August 8, 2015 NYSOH issued a notice of enrollment stating that you and your spouse were enrolled in Medicaid Managed Care plans, and that your plans would start November 1, 2015.

On March 4, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were no longer eligible for Medicaid but your coverage would continue until August 31, 2016. The notice stated that you must come back between July 17, 2016 and August 16, 2016 and update the information in your NYSOH account. The notice directed you to submit proof of income by March 18, 2016 to confirm your eligibility.

Also on March 4, 2016, NYSOH issued a notice of enrollment confirmation confirming enrollment for you and your spouse in your Medicaid Managed Care plans as of November 1, 2015.

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On March 11, 2016, the March 4, 2016 notices were returned to NYSOH as undeliverable.

On March 22, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were no longer eligible for Medicaid but your coverage would continue until August 31, 2016. The notice stated that you must come back between July 17, 2016 and August 16, 2016 and update the information in your NYSOH account. The notice directed you to submit proof of income by April 5, 2016 to confirm your eligibility.

Also on March 22, 2016, NYSOH issued a notice of enrollment confirmation confirming you and your spouse's enrollment in your Medicaid Managed Care plans as of November 1, 2015.

On April 12, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were no longer eligible for Medicaid but your coverage would continue until August 31, 2016. The notice stated that you must come back between July 17, 2016 and August 16, 2016 and update the information in your NYSOH account. The notice directed you to submit proof of income by April 26, 2016 to confirm your eligibility.

Also on April 12, 2016, NYSOH issued a notice of enrollment confirmation confirming you and your spouse's enrollment in your Medicaid Managed Care plans as of November 1, 2015.

On May 15, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were no longer eligible for Medicaid but your coverage would continue until August 31, 2016. The notice stated that you must come back between July 17, 2016 and August 16, 2016 and update the information in your NYSOH account.

Also on May 15, 2016, NYSOH issued a notice of enrollment confirmation confirming you and your spouse's enrollment in your Medicaid Managed Care plans as of November 1, 2015.

On July 3, 2016, NYSOH issued a notice stating that it was time for you and your spouse to renew your NYSOH coverage. The notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether you qualify for financial help paying for your health coverage. The notice directed you to return to your account and complete your renewal between July 16, 2016 and August 15, 2016 or the financial assistance you and your spouse were receiving may end.

A renewal was not completed by August 15, 2016.

On August 17, 2016, NYSOH issued an eligibility redetermination notice stating that you and your spouse no longer qualified to enroll in health coverage through NYSOH because you did not respond to the renewal notice and complete your renewal within the required time frame. The notice indicated that your eligibility would end August 31, 2016.

Also on August 17, 2016, NYSOH issued a notice of disenrollment stating that the Medicaid Managed Care plans you and your spouse were enrolled in were terminated effective August 31, 2016, because you did not renew your health coverage.

On August 23, 2016, NYSOH issued an eligibility redetermination notice, based on your August 22, 2016 updated application, stating that you and your spouse were eligible to enroll in the Essential Plan, effective October 1, 2016.

Also on August 23, 2016, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in the Essential Plan with \$20.00 monthly premiums, effective October 1, 2016.

On September 13, 2016, you contacted NYSOH to enroll you and your spouse into different Essential Plans wherein you were advised that said plans would not begin until October 1, 2016.

Also on September 13, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of the Essential Plans you and your spouse were enrolled in, insofar as they did not begin September 1, 2016.

On September 14, 2016, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in Essential Plans Plus Dental and Vision with \$46.28 monthly premiums, effective October 1, 2016.

On December 16, 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.

The NYSOH Appeals Unit reviewed telephone calls you placed to NYSOH on the following dates: March 3, 2016, March 21, 2016, March 29, 2016, April 4, 2016, April 12, 2016, May 25, 2016, August 22, 2016, August 25, 2016, and September, 13, 2016.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You and your spouse were determined eligible for Medicaid by NYSOH as of September 1, 2015 and thereafter enrolled in a Medicaid Managed Care plans as of November 1, 2015.
- 2) On March 2, 2016, you contacted NYSOH to add your newborn child to your account wherein your application was updated.
- 3) Following the update, NYSOH determined you and your spouse were no longer eligible for Medicaid but, NYSOH would continue the Medicaid coverage for you and your spouse, through your Medicaid Managed Care plans, until the end of the term, August 31, 2016.
- 4) By notice dated March 4, 2016, NYSOH requested proof of your household income to confirm your eligibility.
- 5) NYSOH Appeals Unit reviewed a March 29, 2016 telephone call you placed to NYSOH wherein you were advised to submit proof of your household income to confirm eligibility.
- 6) The record reflects that on April 1, 2016, you submitted documentation of your household income to NYSOH which was thereafter verified on April 11, 2016.
- 7) You testified that you received the July 3, 2016 renewal notice, however you disregarded it because you believed you had renewed your coverage for the 2016 coverage year with a NYSOH representative during an April telephone call.
- 8) You testified that you realized you and your spouse were being dis-enrolled from your current coverage when you received the August 17, 2016 disenrollment notice from NYSOH.
- 9) You testified that you called NYSOH following receipt of the disenrollment notice wherein you updated your account and was advised that you and your spouse would have a gap in health coverage.
- 10) The record reflects that your account was updated on August 22, 2016 and you and your spouse were enrolled into Essential Plans for the first time.
- 11) You testified that you and your spouse were without health coverage for the month of September and that you have outstanding medical bills from this time.
- 12) You testified that you are seeking a September 1, 2016 enrollment start date in the Essential Plan for you and your spouse, because you were

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confused by conflicting notices sent by NYSOH regarding the status of your coverage and because you believed you had already renewed your coverage for the 2016 year.

- 13) NYSOH reviewed all of the telephone calls you placed to NYSOH in March, April, May, July, August and September 2016 and determined the following:
- a. You called March 3, 2016 to add your newborn to your account.
 - b. You called March 21, 2016 to update your mailing address.
 - c. You called April 4, 2016 to check whether NYSOH received the income documentation you faxed. The representative advised it had not yet been received and extended the deadline by which to send the documentation by 15 days.
 - d. You called April 12, 2016 and were advised by a representative that the paystubs you had faxed had been received and they should be verified the same week.
 - e. You called May 25, 2016 to inquire about “conflicting” notices you were receiving indicating you and your spouse were not eligible for Medicaid and also confirming you and your spouse were enrolled in Medicaid Managed Care plans. The NYSOH representative acknowledged the notices were confusing and confirmed that you and your spouse were covered by Medicaid, however your coverage was set to expire on August 31, 2016. The representative advised that you would have to call back between July 17, 2016 and August 15, 2016 to see what you would qualify for beginning September 1, 2016. The representative confirmed that you were “all set” “as long as you call back between those dates”.
 - f. You called August 22, 2016 and updated your account for the 2016 year and increased your household income amount wherein you and your spouse were determined eligible to enroll in the Essential Plan, effective October 1, 2016.
 - g. You called August 25, 2016 to update your household income amount. You and your spouse were still determined eligible to enroll in the Essential Plan.
 - h. You called on September 13, 2016 and spoke with several representatives regarding the gap in coverage in the month of September 2016 for you and your spouse wherein you filed an appeal, on behalf of you and your spouse, of the start date of your Essential Plans.

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

Applicable Law and Regulations

Continuous Coverage

Most applicants determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage offered through Medicaid Managed Care, even if the adult loses Medicaid eligibility because of any changes or updates they make to their Marketplace account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a twelve-month period. This twelve-month period is referred to as “continuous coverage,” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (see 42 CFR § 435.916; N.Y. Soc. Serv. Law § 366(4)(c)).

Applicants determined eligible will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, or failing to provide a valid social security number (N.Y. Soc. Serv. Law § 366(4)(c)).

Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every 12 months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual’s account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (45 CFR § 155.335(h)).

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>).

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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 issue is whether NYSOH properly determined that you and your spouse's enrollment in your Essential Plans was effective October 1, 2016.

The record reflects that you and your spouse were determined eligible for Medicaid, effective September 1, 2015, and thereafter enrolled in Medicaid Managed Care plans beginning November 1, 2015. You testified, and the record reflects, that you contacted NYSOH on March 2, 2016 to add your newborn child to your account wherein your application was updated. As a result of the update, NYSOH determined you and your spouse were no longer eligible for Medicaid but, regardless, NYSOH would continue the Medicaid coverage for you and your spouse, through your Medicaid Managed Care plans, until the end of the term, August 31, 2016.

You testified, and the record reflects, that you submitted paystubs to NYSOH as proof of household income on April 1, 2016. Following verification of your proof of household income, NYSOH still determined you and your spouse were not eligible for Medicaid but acknowledged that your Medicaid coverage would continue to the end of the term; that is, until August 31, 2016.

You testified that you renewed the Medicaid coverage for you and your spouse for the 2016 coverage year over the phone with a representative from NYSOH in April 2016. However, a review of the telephone calls you placed to NYSOH in April reveals that you did not renew your coverage in April 2016. Rather, you confirmed that the income documentation you faxed to NYSOH had been received.

A review of a May 25, 2016 telephone call you made to NYSOH evidences that you were advised you and your spouse were covered by Medicaid, however your coverage was set to expire on August 31, 2016. The representative advised that you would have to call back between July 17, 2016 and August 15, 2016 to see what you would qualify for beginning September 1, 2016.

You contended, in part, that you did not timely respond to the July 3, 2016 renewal notice because you were confused by “conflicting” notices from NYSOH regarding the status of your coverage. It is noted that the March 4, 2016, March 22, 2016, April 12, 2016, May 15, 2016 eligibility redetermination notices indicating that you and your spouse no longer qualified for Medicaid, but your coverage would be continued to August 31, 2016, were based on your eligibility for continuous Medicaid coverage.

Applicants determined eligible for Medicaid are generally guaranteed 12 months of Medicaid coverage offered through Medicaid Managed Care, even if the adult loses Medicaid eligibility because of any changes or updates they make to their Marketplace account. This twelve-month period is referred to as “continuous coverage,” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income.

Based on the continuous coverage rule, you and your spouse were eligible for 12 months of continuous Medicaid coverage running from your September 1, 2015 eligibility start date and ending 12 months later on August 31, 2016. The corresponding enrollment confirmation notices you received simply confirmed your continued enrollment in your Medicaid Managed Care plans during this time. Despite NYSOH determining you and your spouse ineligible for Medicaid following the March 3, 2016 application update, your coverage was continued until the expiration of the 12-month term.

The aforementioned eligibility redetermination notices also stated that you must come back between July 17, 2016 and August 16, 2016 and update the information in your NYSOH account. Additionally, you were advised by a NYSOH representative during a May 25, 2016 telephone call that you must call back between July 17, 2016 and August 15, 2016 to see what you qualify for beginning September 1, 2016 because the coverage for you and your spouse was due to expire on August 31, 2016. You also acknowledged receipt of the July 3, 2016 renewal notice directing you to contact NYSOH between July 17, 2016 and August 15, 2016 to renew your coverage for the 2016 year.

The record reflects that you did not contact NYSOH to complete a renewal for the 2016 coverage year until August 22, 2016, wherein you and your spouse were determined eligible for the Essential Plan, effective October 1, 2016. You and your spouse enrolled in Essential Plans on this date and thereafter switched plans on September 13, 2016, both resulting in October 1, 2016 enrollment start dates.

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

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.

On August 22, 2016, you selected Essential Plans for you and your spouse, so those enrollments properly took effect on the first day of the second month following August; that is, on October 1, 2016.

Therefore, the August 23, 2016 enrollment confirmation notice stating that you and your spouse were enrolled in the Essential Plan, effective October 1, 2016, is correct and must be AFFIRMED.

Decision

The August 23, 2016 enrollment confirmation notice stating that you and your spouse were enrolled in the Essential Plan, effective October 1, 2016, is correct and must be AFFIRMED.

Effective Date of this Decision: January 11, 2017

How this Decision Affects Your Eligibility

This decision does not change the eligibility for you or your spouse.

The effective date of the Essential Health Plan for you and your spouse is October 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

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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
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Summary

The August 23, 2016 enrollment confirmation notice stating that you and your spouse were enrolled in the Essential Plan, effective October 1, 2016, is correct and must be AFFIRMED.

This decision does not change the eligibility for you or your spouse.

The effective date of the Essential Health Plan for you and your spouse is October 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:

