



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

Notice of Decision

Decision Date: March 14, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012160

[REDACTED]

Dear [REDACTED],

On January 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 16, 2016 eligibility redetermination and disenrollment notices and the September 20, 2016 eligibility redetermination 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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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 and your spouse were disenrolled from your Essential Plan, effective September 30, 2016 and next re-enrolled, effective November 1, 2016?

Procedural History

On November 24, 2015, NYSOH issued an eligibility determination notice, based on your November 23, 2015 application, stating that you and your spouse were eligible to enroll in the Essential Plan, effective January 1, 2016.

Also on November 24, 2015, NYSOH issued an enrollment notice confirming yours and your spouse's enrollment in an Essential Plan, with an enrollment start date of January 1, 2016.

On September 16, 2016, NYSOH issued an eligibility determination notice, based on your September 15, 2016 updated application, stating that you and your spouse were newly eligible for an advance payment of the premium tax credit (APTC) in an amount of up to \$448.00 per month through NYSOH, effective October 1, 2016.

Also on September 16, 2016, NYSOH issued a disenrollment notice stating that your and your spouse's enrollment in your Essential Plan was to end, effective September 30, 2016.

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On September 20, 2016, NYSOH issued an eligibility redetermination notice, based on your September 19, 2016 updated application, stating that you and your spouse were eligible to enroll in the Essential Plan, effective November 1, 2016

Also on September 20, 2016, NYSOH issued an enrollment notice confirming yours and your spouse's enrollment in your Essential Plan, with an enrollment start date of November 1, 2016.

On September 22, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your and your spouse's re-enrollment in the Essential Plan insofar as it did not begin on October 1, 2016.

On January 20, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open up to February 5, 2017, to allow you to submit supporting documents.

On January 18, 2017, you submitted a letter in support of your appeal, and on January 24, 2017, you submitted proof of your 2016 household income (see Documents [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]). These documents were made part of the record collectively as "Appellant's Exhibit A." As of February 5, 2017, no further documentation was received and the record is closed as of that date.

Findings of Fact

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

- 1) You and your spouse were determined eligible for the Essential Plan on November 23, 2015, with an effective date of January 1, 2016, based on a projected annual income of \$42,697.21.
- 2) You testified that you received a letter from the NYS Department of Health advising you to update your account in September 2016, but reported that you threw that notice in the garbage. You thought it was too early to renew for 2017, but went in and updated your account with your updated expected earnings on September 15, 2016.
- 3) According to your NYSOH account, no renewal notice was issued by NYSOH in or around September 2016.
- 4) On September 15, 2016, you updated your NYSOH account and listed an annual household income of \$51,097.21, consisting of \$21,998.25 in your earned income and \$5,549.00 in your unearned income less deductions of

\$8,000.00 and \$39,549.96 in your spouse's earnings less deductions of \$8,000.00.

- 5) As a result of updating your account on September 15, 2016, you and your spouse were found eligible for APTC, effective October 1, 2016, and ineligible for the Essential Plan. You and your spouse were then disenrolled from your Essential Plan, effective September 30, 2016.
- 6) According to your NYSOH account, you did not select a qualified health plan on September 15, 2016 for coverage to start on October 1, 2016.
- 7) According to your NYSOH account and your testimony, you next updated your account again on September 19, 2016 and reported an annual household income of \$42,697.21, consisting of \$21,998.25 in your earned income and \$5,549.00 in your unearned income less deductions of \$12,200.00 and \$39,549.96 in your spouse's earnings less deductions of \$12,200.00.
- 8) You did not provide an explanation as to your reason for decreasing your income when you updated your application on September 19, 2016. Your NYSOH application of that date indicates you are "currently working again."
- 9) You selected an Essential Plan on September 19, 2016 for you and your spouse with an enrollment start date of November 1, 2016.
- 10) You testified that you are seeking to have coverage in the Essential Plan begin on October 1, 2016 because your spouse has medical bills from that month.
- 11) According to your NYSOH account you and your spouse reside in [REDACTED] County, New York.

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

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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).

Requirement for Individuals to Report Changes

NYSOH must require an applicant to report any change which may affect eligibility, such as citizenship status, incarceration, residency, household size, and income within 30 days of such change (45 CFR §155.330(b), 45 CFR §155.305, 42 CFR §435.403, 42 CFR §435.406, 42 CFR §425.603; see 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>).

Essential Plan: Renewal

New York State has also elected to redetermine Essential Plan enrollees every 12 months from the effective date of eligibility as long as enrollees are under age 65, are not enrolled in minimum essential coverage, and remain state residents. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12-month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or changes in circumstances (42 CFR § 600.340(f); NY Social Services Law § 369-gg(3) and (4)(d)). Enrollees are required to report changes in circumstances within 30 days, which NYSOH will assess and act upon accordingly (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>).

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

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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 first issue under review is whether NYSOH properly determined that you and your spouse were disenrolled from your Essential Plan, effective September 30, 2016.

The record reflects that you and your spouse were determined eligible for and enrolled in an Essential Plan, effective January 1, 2016, based on a reported household income of \$42,697.21 at the time. These facts are not in dispute.

You testified that you received a notice from the NYS Department of Health advising you to update your account in September 2016. You also testified that you threw that notice in the garbage so you could not submit it as proof. There is no evidence in your account to demonstrate that in September 2016, NYSOH issued a renewal notice telling you to update your NYSOH account. Therefore, there is no evidence in the record that a renewal notice was ever issued by NYSOH.

What the record does indicate is that you updated your account on September 15, 2016, and changed your household income to \$51,097.21. Your actions in reporting a more current and accurate reflection of your expected 2016 household income was in keeping with the requirement that Essential Plan enrollees report changes in circumstances, such as an increase in income, within 30 days of those changes.

Your updated application resulted in your and your spouse's eligibility being redetermined. You and your spouse were redetermined eligible for advance payments of the premium tax credit in the amount of \$448.00 per month, effective October 1, 2016. Since you and your spouse were eligible for APTC, neither of you qualified to remain in your Essential Plan, as of September 30, 2016.

Since NYSOH properly redetermined your eligibility based upon your report of your household's increased income, the September 16, 2016 eligibility redetermination and disenrollment notices are **AFFIRMED**.

The second issue under review is whether NYSOH properly determined that you and your spouse were re-enrolled from your Essential Plan, effective November 1, 2016.

The record shows that on September 19, 2016 you again updated the information in your NYSOH account and submitted a request to enroll in an Essential Plan.

The date on which the 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 after the fifteenth day of a month goes into effect on the first day of the second following month.

Since you selected your Essential Plan on September 19, 2016, it must take effect on the first day of the second month following September; that is, on November 1, 2016.

Therefore, NYSOH's September 20, 2016 eligibility determination and enrollment confirmation notices stating that you and your spouse's eligibility for and enrollment in the Essential Plan resumed as of November 1, 2016 were correct when made and are AFFIRMED.

Decision

The September 16, 2016 eligibility redetermination and disenrollment notices are AFFIRMED.

The September 20, 2016 eligibility redetermination and enrollment confirmation notices are AFFIRMED.

Effective Date of this Decision: March 14, 2017

How this Decision Affects Your Eligibility

NYSOH properly disenrolled you and your spouse from your Essential Plan, effective September 30, 2016.

NYSOH properly re-enrolled you and your spouse in the Essential Plan, effective November 1, 2016.

You and your spouse did not have health insurance coverage through NYSOH during the month of October 2016.

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NYSOH requires an applicant to report any change which may affect eligibility, such as an increase in income within 30 days of such change. Please update your account accordingly.

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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Summary

The September 16, 2016 eligibility redetermination and disenrollment notices are **AFFIRMED**.

NYSOH properly disenrolled you and your spouse from your Essential Plan, effective September 30, 2016.

The September 20, 2016 eligibility determination and enrollment confirmation notices are **AFFIRMED**.

NYSOH properly re-enrolled you and your spouse in the Essential Plan, effective November 1, 2016.

You and your spouse did not have health insurance coverage through NYSOH during the month of October 2016.

NYSOH requires an applicant to report any change which may affect eligibility, such as an increase in income within 30 days of such change. Please update your account accordingly.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

