



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

Notice of Decision

Decision Date: February 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012479



Dear [REDACTED],

On February 10, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's August 20, 2016 disenrollment 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 NY State of Health 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: February 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012479



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 disenrolled from the Essential Plan, effective September 30, 2016?

Procedural History

On January 29, 2016, NYSOH issued a notice of eligibility determination, based on your January 28, 2016 application, stating that you were eligible for the Essential Plan, effective March 1, 2016.

Also on January 29, 2016, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective March 1, 2016.

On July 22, 2016, you updated your NYSOH application for financial assistance with health insurance.

On July 23, 2016, NYSOH issued a notice of eligibility determination, based on the July 22, 2016 application, stating that you were eligible to enroll in the Essential Plan for a limited time, effective September 1, 2016. The notice further directed you to provide documentation confirming your income before October 20, 2016.

On August 12, 2016, you updated your NYSOH application for financial assistance with health insurance.

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On August 13, 2016, NYSOH issued a notice of eligibility determination, based on the August 12, 2016 application, stating that you were eligible to enroll in the Essential Plan for a limited time, effective September 1, 2016. The notice further directed you to provide documentation confirming your income before October 20, 2016.

On August 15, 2016, income documentation was uploaded to your NYSOH account.

On August 19, 2016, NYSOH reviewed the income documentation you submitted and found this to be insufficient to resolve the inconsistency in your account, as you submitted four paystubs, however you had also attested to Unemployment Insurance Benefits, and an Unemployment Insurance Benefit letter was needed in order to determine your eligibility for financial assistance with health insurance.

Also on August 19, 2016, NYSOH recalculated your household income based on the income documentation you submitted. That same day, an application was submitted on your behalf based on the household income NYSOH recalculated.

On August 20, 2016, NYSOH issued a notice advising that more information was needed in order for NYSOH to determine whether you qualified for financial assistance with health insurance. This same notice directed you to submit income documentation by September 3, 2016.

Also on August 20, 2016, NYSOH issued a disenrollment notice stating that your enrollment in your Essential Plan would end, effective September 30, 2016.

Additionally, on August 20, 2016, NYSOH issued a notice advising that the income documentation you submitted does not confirm the information on your application, and that additional income documentation was due by September 3, 2016.

On September 15, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost. The notice stated that you were not eligible to enroll in the Essential Plan because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective October 1, 2016.

On October 11, 2016, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible to enroll in the Essential Plan and you selected a plan for enrollment.

Also on October 11, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan for the month of October 2016.

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On October 12, 2016, NYSOH issued a notice of eligibility determination, based on your October 11, 2016 application, stating that you were eligible to enroll in the Essential Plan for a limited time, effective November 1, 2016. The notice further directed you to provide documentation confirming your income before January 9, 2017.

Also on October 12, 2016, NYSOH issue a notice of enrollment confirmation, based on your plan selection on October 11, 2016, stating that you were enrolled in an Essential Plan effective November 1, 2016.

On October 27, 2016 and November 1, 2016 additional income documentation was uploaded to your NYSOH account.

On January 15, 2017, NYSOH redetermined your eligibility for financial assistance with health insurance based upon the income documentation you submitted.

On January 16, 2017, NYSOH issued an eligibility determination notice stating that you were fully eligible for the Essential Plan, effective February 1, 2017.

On January 27, 2017, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date.

On February 10, 2017, you had an adjourned hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the hearing. 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 elected to receive notices from NYSOH via electronic mail in July of 2016.
- 2) You testified that you did receive the July 23, 2016 notice requesting income documentation via regular mail.
- 3) You testified that you expect to file your 2016 tax return with a filing status of single and will claim no dependents on that return.
- 4) The applications that you submitted on July 22, 2016 and August 12, 2016 listed annual household income of \$21,417.50, consisting of

\$20,600.00 in earned income and \$817.50 in Unemployment Insurance Benefits.

- 5) On August 12, 2016, you faxed four paystubs to NYSOH, which were uploaded to your account on August 15, 2016. The first paystub was for pay date July 14, 2016 for a gross pay amount of \$222.00; the second was for pay date July 21, 2016 for a gross pay amount of \$248.75; the third was for pay date July 28, 2016 for a gross pay amount of \$402.00; the fourth was for pay date of August 4, 2016 for a gross pay amount of \$192.00 and shows a gross year to date amount of \$14,672.44.
- 6) On August 19, 2016, NYSOH reviewed the paystubs submitted on August 12, 2016, and determined that these paystubs were insufficient to resolve the inconsistency in your account, as an Unemployment Insurance Benefit statement was needed.
- 7) You testified that your earnings vary from week to week depending on how many hours you work and how much you receive in Unemployment Insurance Benefits in a given week.
- 8) Also on August 19, 2016, NYSOH recalculated your income to be \$14,659.25, consisting of \$13,841.75 in earned income and \$817.50 in Unemployment Insurance Benefits.
- 9) You testified that in 2016 you had \$20,444.41 in earned income. You testified that you were not sure exactly how much income you had from Unemployment Insurance Benefits in 2016, as you are still waiting for your tax statement.
- 10) You testified that you worked for [REDACTED] throughout 2016, and that this was your only employer in 2016.
- 11) Your NYSOH account indicates that on August 19, 2016 your application was run, based upon NYSOH's recalculation of your income, and you were disenrolled from the Essential Plan as of September 30, 2016.
- 12) You updated the income information in your NYSOH account on October 11, 2016.
- 13) You testified that you are seeking enrollment in your Essential Plan as of October 1, 2016.

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

Applicable Law and Regulations

Verification of Eligibility for the 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).

NYSOH must verify the eligibility of an applicant for the Essential Plan consistent with the standards set in 45 CFR § 155.315 and § 155.320 (New York's Basic Health Plan Blueprint, pgs. 16-17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>; 42 CFR § 600.345(a)(2)).

An applicant is required to attest to their household's projected annual income. (45 CFR § 155.320(c)(3)(ii)(B)). For all individuals whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security in order to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant in order to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any updates in eligibility to the Essential Plan effective the first day of the following month for changes received by NYSOH from the first to the fifteenth of any month (45 CFR § 155.420(b)(1)(i); see *also* 42 CFR § 600.320(c)). For updates 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 § 155.420(b)(1)(ii); see *also* 42 CFR § 600.320(c)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were disenrolled from the Essential Plan, effective September 30, 2016.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her household's projected annual income. For individuals seeking enrollment in the Essential Plan, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on July 23, 2016, you were advised that you were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income before October 20, 2016. You testified that you received this notice via regular mail.

Therefore, NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

On August 12, 2016 you faxed four paystubs to NYSOH, and these paystubs were uploaded to your NYSOH account on August 15, 2016.

On August 19, 2016, NYSOH found these paystubs insufficient to resolve the inconsistency in your account, and sent a notice advising you of this on August 20, 2016.

However, despite finding the income documentation insufficient, NYSOH still utilized this income documentation to recalculate your income on August 19, 2016.

NYSOH recalculated your 2016 annual income to be \$14,659.25, based on earned income of \$13,841.75 (\$1,064.75 divided by four weeks, for a weekly

average of \$266.1875, multiplied by 52 weeks for a yearly gross of \$13,841.75) added to the reported Unemployment Insurance Benefit gross of \$817.50.

However, this methodology does not provide an accurate calculation of your 2016 earnings as the fourth paystub you provided for pay date August 4, 2016 noted a year to date gross of \$14,672.44. Therefore, as of August 4, 2016 it would have been mathematically impossible for your 2016 annual household income to be only \$14,659.25, unless you were claiming deductions. Your applications, confirmed by your testimony, do not indicate that you will be claiming deductions. Therefore, NYSOH incorrectly calculated your 2016 annual household income on August 19, 2016.

Additionally, as NYSOH found the income documentation you submitted on August 12, 2016 insufficient to resolve the inconsistency in your account and invalidated the documentation, NYSOH should not have redetermined your eligibility on August 19, 2016 based on invalidated documentation.

Therefore, the August 20, 2016 disenrollment notice, finding you disenrolled for your Essential Plan, effective September 30, 2016, is **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate you into your Essential Plan as of October 1, 2016.

Decision

The August 20, 2016 disenrollment notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate you into your Essential Plan as of October 1, 2016.

Effective Date of this Decision: February 28, 2017

How this Decision Affects Your Eligibility

NYSOH improperly disenrolled you from your Essential Plan, effective September 30, 2016.

This determination has no effect on subsequent eligibility determinations.

If You Disagree with this Decision (Appeal Rights)

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).

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 August 20, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate you into your Essential Plan as of October 1, 2016.

NYSOH improperly disenrolled you from your Essential Plan, effective September 30, 2016.

This determination has no effect on subsequent eligibility determinations.

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Legal Authority

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

A Copy of this Decision Has Been Provided To:

