



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: AP000000012603

[REDACTED]

Dear [REDACTED]

On February 1, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 11, 2016 and October 18, 2016 eligibility determination 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 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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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine that you and your spouse's eligibility for the Essential Plan ended effective October 31, 2016?

Did NYSOH properly determine that you and your spouse's eligibility for and re-enrollment in the Essential Plan was effective December 1, 2016?

Procedural History

On June 24, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective August 1, 2016. The notice further directed you to provide documentation confirming your income before September 20, 2016.

Also, on June 24, 2016 NYSOH issued a notice confirming enrollment in an Essential Plan, effective August 1, 2016, for you and your spouse.

No additional documents were received by September 20, 2016.

On October 7, 2016, NYSOH issued a disenrollment notice stating that enrollment in the Essential Plan for you and your spouse would end as of October 31, 2016, because you and your spouse were no longer eligible to remain in the plan.

On October 11, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a qualified health plan at full cost. The notice stated that you and your spouse 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 November 1, 2016.

On October 17, 2016, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective December 1, 2016, and you selected a plan for enrollment.

Also on October 17, 2016 you spoke to NYSOH's Account Review Unit and appealed the termination of you and your spouse's Essential Plan for the month of November 2016.

On October 18, 2016, NYSOH issued a notice of eligibility determination, based on your October 17, 2016 application, stating that you and your spouse were again eligible to enroll in the Essential Plan, effective December 1, 2016.

Also on October 18, 2016, NYSOH issued a notice of enrollment confirmation, based on your plan selection on October 17, 2016, stating that you and your spouse were enrolled in an Essential Plan effective December 1, 2016.

On February 1, 2017, 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 the June 24, 2016 notice from NYSOH stating that you and your spouse's eligibility was only conditional and that you needed to provide documentation of your household's income before September 20, 2016.
- 2) You testified that you did not provide the income documentation to NYSOH after you received the June 24, 2016 notice.
- 3) Your NYSOH account indicates that on October 6, 2016, your eligibility was redetermined and you and your spouse were found no longer eligible for the Essential Plan as of October 31, 2016.

- 4) You testified that you updated the income information in your NYSOH account on October 17, 2016.
- 5) You testified that you and your spouse are seeking enrollment in your Essential Plan as of November 1, 2016.
- 6) You testified that you have an outstanding medical bill from November 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)).

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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 first issue under review is whether NYSOH properly determined that eligibility for the Essential Plan for you and your spouse ended effective October 31, 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 June 24, 2016, you were advised that you and your spouse were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income before September 20, 2016.

You testified that you received the June 24, 2016 notice from NYSOH telling you that you needed to provide income documentation to confirm eligibility before September 20, 2016. You testified that you did not provide the income documentation to NYSOH after receipt of the June 24, 2016 request. You testified that you provided the income information to NYSOH on October 17, 2016.

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, and the documentation was not submitted by the deadline provided.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation.

Accordingly, you and your spouse's eligibility for the Essential Plan terminated as of October 31, 2016 because you did not submit documentation and did not adequately demonstrate that you could not provide documentation to confirm your income.

Therefore, the October 11, 2016 eligibility determination notice is AFFIRMED.

The second issue is whether NYSOH properly determined that eligibility for and reenrollment in the Essential Plan was effective no earlier than December 1, 2016.

You testified, and your account confirms, that you updated your NYSOH application on October 17, 2016. That day you selected an Essential Plan for enrollment for you and your spouse.

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.

Since on October 17, 2016, you selected an Essential Plan, you and your spouse's enrollment would properly take effect on the first day of the second following month; that is, on December 1, 2016.

Therefore, the October 11, 2016 and the October 18, 2016 eligibility determination notices are correct and must be AFFIRMED.

Decision

The October 11, 2016 and October 18, 2016 notices of eligibility determination are AFFIRMED.

Effective Date of this Decision: February 28, 2017

How this Decision Affects Your Eligibility

NYSOH properly found you and your spouse no longer eligible to enroll in the Essential Plan effective October 31, 2016 because you did not provide documentation of your household's income.

NYSOH properly found that you and your spouse's reenrollment in the Essential Plan was effective December 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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- By fax: 1-855-900-5557

Summary

The October 11, 2016 and October 18, 2016 notices of eligibility determination are AFFIRMED.

NYSOH properly found you and your spouse not eligible to enroll in the Essential Plan effective October 31, 2016 because you did not provide documentation of your household's income.

NYSOH properly found that you and your spouse's reenrollment in the Essential Plan was effective December 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:

