



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

Notice of Decision

Decision Date: April 04, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012669

[REDACTED]

Dear [REDACTED],

On February 7, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 19, 2016 eligibility determination notice, the October 20, 2016 eligibility determination 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 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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Decision

Decision Date: April 04, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012669

[REDACTED]

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 your spouse's eligibility for the Essential Plan ended effective October 31, 2016?

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

Procedural History

According to eligibility redetermination notices, issued on March 17, 2016 and May 26, 2016, your spouse was determined eligible to enroll in the Essential Plan for a limited time, effective May 1, 2016 and July 1, 2016 respectively. The March 17, 2016 notice directed you to provide documentation confirming your household's income before June 14, 2016, and the May 26, 2016 notice gave you until before August 23, 2016 to provide such documentation.

On March 17, 2016 and May 26, 2016, NYSOH issued enrollment confirmation notices indicating your spouse was enrolled in an Essential Plan, effective May 1, 2016.

On July 2, 2016, NYSOH issued a disenrollment notice stating that your spouse's Essential Plan coverage was terminated effective June 30, 2016, because premium payments had not been received by the plan within the required timeframe to maintain coverage.

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On July 6, 2016, NYSOH issued an enrollment confirmation notice indicating that your plan selection for your spouse's enrollment in an Essential Plan would start, on August 1, 2016.

No income documentation was provided to NYSOH by August 23, 2016.

On September 19, 2016, NYSOH issued an eligibility redetermination notice stating that your spouse was newly eligible to receive up to \$179.00 in advance payments of the premium tax credit (APTC) and conditionally eligible to receive cost-sharing reductions if she enrolled in a silver-level qualified health plan, effective November 1, 2016. This was because federal and state data sources showed your household income was within the range for the premium tax credit based on your household size. The notice further stated that your spouse qualified to select a health plan outside of the open enrollment period for 2016.

Also on September 19, 2016, NYSOH issued a disenrollment notice stating that your spouse's Essential Plan coverage would end effective October 31, 2016, because she was no longer eligible to remain enrolled in her current plan.

On October 19, 2016, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared finding your spouse eligible to enroll in the Essential Plan, effective December 1, 2016. That same day, you selected an Essential Plan for her enrollment.

Also on October 19, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your spouse's Essential Plan for the month of November 2016.

On October 20, 2016, NYSOH issued an eligibility redetermination notice, based on your October 19, 2016 application, stating that your spouse was eligible to enroll in the Essential Plan, effective December 1, 2016. The notice further directed you to provide documentation confirming your household income before January 17, 2017.

Also on October 20, 2016, NYSOH issue an enrollment confirmation notice, based on your plan selection on October 19, 2016, stating that your spouse was enrolled in an Essential Plan effective December 1, 2016.

On February 7, 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 21, 2017, to allow you to submit supporting documents.

On February 14, 2017, NYSOH Appeals Unit received a two-page facsimile contain supporting documentation. This facsimile was made part of the record as "Appellant's Exhibit # 1" and the record was closed.

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Findings of Fact

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

- 1) According to your NYSOH account and your testimony, you receive all of your notices from NYSOH via regular mail.
- 2) You testified that you probably received that March 17, 2016 notice stating that your spouse was eligible for a limited time and that you needed to provide documentation of your household's income.
- 3) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 4) You testified that you recall gathering together the documents to prove your household income and mailing them to NYSOH in early April 2016.
- 5) On February 13, 2017, you submitted to NYSOH Appeals Unit by facsimile, a copy of a U.S. Postal Service receipt, dated April 1, 2016, which shows you mailed to [REDACTED], zip code [REDACTED] a First-Class letter weighing 1.10 oz. with an expected delivery date of April 4, 2016. (see Document [REDACTED]).
- 6) There is no record in your NYSOH account that the document(s) you testified were mailed to NYSOH in early April 2016 were received or processed by NYSOH.
- 7) According to your NYSOH account, on May 25, 2016, you contacted NYSOH and updated the information in your account including a change in income.
- 8) Your NYSOH account indicates that, on September 18, 2016, your application was run systematically and your spouse was found eligible for APTC of up to \$179.00 per month, effective November 1, 2016, qualified to select a health plan outside of the 2016 open enrollment period to select a qualified health plan, and no longer eligible for the Essential Plan as of November 1, 2016.
- 9) According to your NYSOH account, you did not select a qualified health plan for your spouse at that time for coverage to begin November 1, 2016.

- 10) According to your NYSOH account, you submitted income documentation to NYSOH on October 12, 2016.
- 11) According to your NYSOH account, you updated the information in your NYSOH account on October 19, 2016, and your spouse was redetermined eligible for the Essential Plan, effective December 1, 2016.
- 12) You testified that, during the month of November 2016, your spouse became ill and was hospitalized.
- 13) You testified that you are seeking enrollment for your spouse in the Essential Plan as of November 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)).

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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 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 first issue under review is whether NYSOH properly determined that your spouse's eligibility for the Essential Plan 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 March 17, 2016, you were advised that your spouse was eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income before June 14, 2016.

You testified that you gathered the required documents to prove your household income and mailed them to NYSOH in early April 2016. You submitted to NYSOH Appeals Unit a copy of a U.S. Postal Service receipt showing that on April 1, 2016, you mailed a First-Class letter weighing 1.10 oz. to [REDACTED] zip

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code [REDACTED] with an expected delivery date of April 4, 2016. However, you did not provide the contents of that mailing nor is there is any indication in your NYSOH account that any such correspondence and documents were received by NYSOH.

Your NYSOH account does show that on May 25, 2016, you contacted NYSOH and updated your account to include a change in income. NYSOH issued an eligibility redetermination stating your spouse was again eligible for a limited time to enroll in the Essential Plan. You were instructed to provide additional information to confirm her eligibility; specifically, you were required to confirm your household income by August 23, 2016.

No documentation regarding your household income was received by August 23, 2016.

You testified and your NYSOH account confirms that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable. As such, the May 26, 2016 notice is deemed sent and received.

Therefore, NYSOH properly notified you of an inconsistency in your account as of your May 25, 2016 updated application, as stated in the May 26, 2016 eligibility redetermination notice that directed you to provide documentation before August 23, 2016, to confirm the household income you listed in your account was accurate.

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. The record reflects that you did not submit the required income documentation to NYSOH before August 23, 2016, and there is nothing in the record to adequately demonstrate that you could not provide documentation to confirm your household income. Therefore, on September 18, 2016, NYSOH ran an eligibility redetermination based on information available from federal and state data sources and found your spouse eligible for APTC of up to \$179.00 per month, effective November 1, 2016.

Additionally, this eligibility redetermination resulted in your spouse's eligibility for the Essential Plan terminating as of October 31, 2016 because she was no longer eligible for this program.

Therefore, the September 19, 2016 eligibility redetermination and disenrollment notices are AFFIRMED.

It is noted that, although your spouse was redetermined eligible for APTC through a qualified health plan, effective November 1, 2016, you did not select a plan for your spouse for coverage to begin as of that date.

The second issue is whether NYSOH properly determined that your spouse's eligibility for and enrollment in the Essential Plan was next effective December 1, 2016.

According to your NYSOH account and your testimony, you submitted proof of income documentation on October 12, 2016. On October 19, 2016, you updated your NYSOH application and, on that day, selected an Essential Plan for your spouse's enrollment.

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 19, 2016, you selected an Essential Plan, your spouse's enrollment would properly take effect on the first day of the second month following October 2016; that is, on December 1, 2016.

Therefore, the October 20, 2016, eligibility determination notice, and the October 20, 2016, enrollment confirmation notice stating that your spouse's enrollment in the Essential Plan was effective December 1, 2016, is correct and must be AFFIRMED.

Decision

The September 19, 2016 eligibility redetermination and disenrollment notices are AFFIRMED.

The October 20, 2016 eligibility determination notice is AFFIRMED.

The October 20, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: April 04, 2017

How this Decision Affects Your Eligibility

NYSOH properly found your spouse ineligible to enroll in the Essential Plan effective October 31, 2016 because she was no longer eligible for this program.

NYSOH properly found that your spouse's re-enrollment in the Essential Plan was effective December 1, 2016.

Your spouse did not have health insurance coverage through MYSOH for the month of November 2016.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace 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 Federal Marketplace. 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 have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

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 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).

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 September 19, 2016 eligibility redetermination and disenrollment notices are AFFIRMED.

The October 20, 2016 eligibility determination notice is AFFIRMED.

The October 20, 2016 enrollment confirmation notice is AFFIRMED.

NYSOH properly found your spouse ineligible to enroll in the Essential Plan effective October 31, 2016 because she was no longer eligible for this program.

NYSOH properly found that your spouse's re-enrollment in the Essential Plan was effective December 1, 2016.

Your spouse did not have health insurance coverage through MYSOH for the month of November 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&btumi ama wo obi a okyer& kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען איר געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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