



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

Notice of Decision

Decision Date: March 7, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012776

[REDACTED]

Dear [REDACTED],

On February 15 and February 21, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 10, 2016 eligibility determination 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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Decision

Decision Date: March 7, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012776



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 your spouse and daughter's eligibility for the Essential Plan ended effective November 1, 2016?

Procedural History

On May 6, 2016, you updated your NYSOH application, and uploaded documentation to your NYSOH account.

On May 7, 2016, NYSOH issued a notice stating that NYSOH had received the application for health insurance for you, your spouse, and your daughter, but that more information was needed. The notice directed you to submit income documentation by May 22, 2016 in order for your eligibility to be determined. The notice did not provide specifics as to who needed to submit income documentation.

On May 11, 2016, NYSOH issued a notice stating that you had provided income documentation, but that it was not sufficient to resolve the inconsistency in your account. The notice directed you to submit proof of income for yourself, your spouse, and your daughter.

Also on May 11, 2016, NYSOH issued a notice stating that NYSOH had received your application for health insurance for you, yourself, and your spouse, but that

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more information was needed. The notice directed you to submit income documentation by May 26, 2016.

On June 13, 2016, your NYSOH account was updated.

On June 14, 2016, NYSOH issued a notice stating that NYSOH had received your application for health insurance for your spouse and your daughter, but that more information was needed. The notice directed you to submit income documentation by June 29, 2016.

On June 16, 2016, documentation was uploaded to your NYSOH account.

On June 21, 2016, NYSOH issued a notice stating that you had provided documentation, but that it was insufficient to resolve the inconsistency in your account. The notice directed you to submit proof of income for your spouse and your daughter.

On June 27, 2016, documentation was uploaded to your NYSOH account.

On June 30, 2016, NYSOH issued a notice of eligibility determination notice stating that your spouse and your daughter were eligible to enroll in the Essential Plan with a \$20.00 monthly premium for a limited time, effective August 1, 2016. The notice further stated that you needed to provide documentation of your spouse's and daughter's income by September 27, 2016.

On July 14, 2016, NYSOH issued a notice confirming your spouse's and daughter's enrollment in an Essential Plan, effective August 1, 2016.

On October 6, 2016, NYSOH issued a disenrollment notice stating that your spouse and daughter's enrollment in their Essential Plan coverage was terminated effective October 31, 2016 because they were no longer eligible to remain enrolled in their current health insurance.

On October 10, 2016, NYSOH issued a notice of eligibility determination stating that your spouse and daughter were newly eligible to purchase a qualified health plan at full cost, effective November 1, 2016. This was because NYSOH had not received the income documentation needed to verify the income listed in your application. The notice provided this reason next to your spouse's name only, and did not provide a reason next to your daughter's name.

On October 21, 2016, you updated your NYSOH account.

On October 22, 2016, NYSOH issued a notice of eligibility determination stating that your daughter was eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective December 1, 2016. The notice also stated that your spouse was eligible to enroll in the Essential Plan with a \$20.00 monthly

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premium for a limited time, effective December 1, 2016. The notice further directed you to submit documentation of your spouse and daughter's income by January 19, 2017.

Also on October 22, 2016, NYSOH issue a notice of enrollment confirmation, confirming your spouse and daughter's enrollment in an Essential Plan, effective December 1, 2016.

On October 24, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your spouse and daughter's Essential Plan coverage for the month of November 2016.

On February 15, 2017 and February 22, 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, and your application indicates, that you receive all of your notices from NYSOH via regular mail.
- 2) You testified that you may have received a notice stating that your eligibility was only conditional and that you needed to provide documentation of your household's income.
- 3) You testified that you worked with a navigator named [REDACTED], and that you called her when you received the June 30, 2016 eligibility determination because it said that you still needed to provide documentation.
- 4) You testified that [REDACTED] told you that you had submitted all the necessary documentation, and that the notice was probably just issued before the documentation was processed.
- 5) You testified that you never spoke with NYSOH regarding your documentation until your spouse and daughter's insurance was cut off, as you were dealing solely with your navigator until then.
- 6) Your NYSOH account indicates that on October 5, 2016, your application was run and your spouse and daughter were found no longer eligible for the Essential Plan as of November 1, 2016.

- 7) You testified that you discovered that there was a problem with your spouse and daughter's coverage when you got a notice in October 2016 from either Blue Cross Blue Shield or Delta Dental that their plan was being cancelled.
- 8) You testified that you did not know why, and were worried that maybe you had missed a payment, so you started searching through your documents.
- 9) You testified that you tried to reach your navigator at this point, but that the phone number you had for her was no longer being answered, and that it seemed that she was no longer a navigator.
- 10) You testified that, at some point, you contacted NYSOH about your spouse and daughter's coverage, and found out that there was a problem with the income documentation.
- 11) You testified that you were very surprised to hear this, as you thought you had submitted everything you needed to, based on your conversations with [REDACTED].
- 12) You testified that you could not recall whose income documentation NYSOH was specifically looking for at that point, but that after speaking with NYSOH, you provided a letter from the [REDACTED] [REDACTED] regarding your employment with them, and a letter from your daughter's employer, as well as a letter stating that your [REDACTED] [REDACTED] son does not work.
- 13) You testified that you do not have any medical bills from November 2016 at this point, as you were able to move all of your spouse and daughter's appointments.
- 14) Income documentation was uploaded to your NYSOH account as follows on the dates listed below:
 - a. May 6, 2016:
 - i. A copy of your 2015 W2 from [REDACTED] [REDACTED] showing gross wages of \$12,008.90, with a handwritten note stating that you grossed \$310.00 in 2015 working as an [REDACTED] [REDACTED] (Document [REDACTED]);
 - ii. A copy of a paystub dated May 6, 2016 for your spouse (Document [REDACTED]);
 - iii. A copy of your daughter's 2015 W2 from [REDACTED] [REDACTED] for gross wages of \$203.43, and a copy of her 2015 W2

from [REDACTED], showing gross wages of \$5,834.18 (Document [REDACTED]);

b. June 16, 2016:

i. Four paystubs for your spouse as follows:

1. 5/20/16 - \$423.80 gross;
2. 5/27/16 - \$426.30 gross;
3. 6/03/16 - \$403.20 gross;
4. 6/10/16 - \$405.00 gross;

(Document [REDACTED]);

ii. Three paystubs for your daughter as follows:

1. 5/25/16 - \$167.25 gross;
2. 6/01/16 - \$171.25 gross;
3. 6/08/16 - \$149.50 gross;

(Document [REDACTED]);

c. June 27, 2016:

1. Four Statements of Account showing your earnings from [REDACTED] for 5/2016, 5/27/16, 6/03/16, and 6/10/16 (Document [REDACTED]);
2. A statement of earnings from [REDACTED] for 6/17/16 (Document [REDACTED]);
3. Two stubs [REDACTED] for you dated 5/25/16 and 6/06/16 (Document [REDACTED]);
4. A paystub for your daughter from [REDACTED] dated 6/15/16 for \$370.88 gross (Document [REDACTED]).

- 15) You testified that it was difficult to know exactly what to provide initially, as you work a job that earns commission, and at another job with the [REDACTED] that is very sporadic.
- 16) You testified that, initially, you could only provide three paystubs for your daughter because she had just come home from college, and did not yet have four paystubs.
- 17) Your NYSOH account reflects that you uploaded her fourth paystub on June 27, 2016.
- 18) You updated your NYSOH account on October 21, 2016, and uploaded further income documentation on October 24, 2016, and again in December 2016.
- 19) On October 22, 2016, your spouse and your daughter were found eligible for the Essential Plan, effective December 1, 2016.
- 20) You testified that you are seeking for their enrollment in the Essential Plan to begin as of November 1, 2016 instead.

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)).

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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 your spouse and daughter'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 June 30, 2016, you were advised that your spouse and daughter were eligible for the Essential Plan for a limited time, and that you needed to confirm their income information by September 27, 2016.

You testified that you believe you did receive this notice from NYSOH telling you that you needed to provide income documentation to confirm your spouse and daughter's eligibility. However, you testified that you had provided income documentation to the navigator you were working with, and that you were under the impression that all the necessary income documentation had been submitted. You further credibly testified that you called the navigator when you received this notice, but that she told you that you were all set, and that the notice had probably just been issued before the documentation had been reviewed.

The record reflects that you provided a substantial amount of income documentation to NYSOH on June 16 and June 27, 2016. Moreover, notes entered by NYSOH into your account on June 29, 2016 indicate that the income documentation that you provided for your spouse and daughter was deemed sufficient, and that only the documentation you had provided regarding your own income was still lacking.

However, the notice sent on June 21, 2016, and the eligibility determination notice sent on June 30, 2016, state that further income documentation is needed for your spouse and daughter. Neither of the notices reference a need for further documentation of your income, notwithstanding the notes entered into your NYSOH account. Lastly, NYSOH's notices requesting income documentation never stated specifically how the documentation you provided in June 2016 was lacking, nor what you needed to provide to resolve the inconsistency. This lack of specificity is confirmed by your testimony that you did not understand what documentation NYSOH was specifically looking for until you spoke with a NYSOH representative in October 2016.

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.

NYSOH terminated your spouse and daughter's eligibility for the Essential Plan as of October 31, 2016 because you allegedly had not submitted sufficient income documentation. However, as discussed above, this was not the case, as you had provided extensive documentation, and NYSOH's notices failed to describe why or how that documentation was insufficient.

Therefore, the October 6, 2016 disenrollment notice, and the October 10, 2016 eligibility determination notice, are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your spouse and daughter in their Essential Plan coverage for the month of November 2016.

Decision

The October 6, 2016 disenrollment notice is RESCINDED.

The October 10, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your spouse and daughter into their Essential Plan coverage for the month of November 2016.

Effective Date of this Decision: March 7, 2017

How this Decision Affects Your Eligibility

NYSOH's determination that your spouse and daughter were no longer eligible for the Essential Plan as of November 1, 2016 was not correct.

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).

Your case is being sent back to NYSOH to reinstate your spouse and daughter into their Essential Plan for the month of November 2016 so that there is no gap in their coverage.

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:
NY State of Health Appeals
P.O. Box 11729
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- By fax: 1-855-900-5557

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Summary

The October 6, 2016 disenrollment notice is RESCINDED.

The October 10, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your spouse and daughter into their Essential Plan coverage for the month of November 2016.

NYSOH's determination that your spouse and daughter were no longer eligible for the Essential Plan as of November 1, 2016 was not correct.

Your case is being sent back to NYSOH to reinstate your spouse and daughter into their Essential Plan for the month of November 2016 so that there is no gap in their coverage.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

