



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

Notice of Decision

Decision Date: March 6, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012842, AP000000014480

[REDACTED]

Dear [REDACTED]

On February 8, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 5, 2016 enrollment confirmation notice and the December 16, 2016 notice requesting additional documentation to make an eligibility determination.

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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012842, AP000000014480

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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 your enrollment in a qualified health plan was effective June 1, 2016, rather than August 1, 2016?

Did NYSOH properly determine that you were not found eligible for Medicaid as a result of your December 15, 2016 application?

Procedural History

On July 4, 2016, NYSOH received your initial application for health insurance.

On July 5, 2016, NYSOH issued an eligibility determination stating that you were eligible to receive up to \$238.00 per month in advance payments of the premium tax credits (APTC) and, if you selected a silver-level qualified health plan, for cost-sharing reductions (CSR). This eligibility was effective August 1, 2016. You were also found eligible for a special enrollment period, so that you could enroll in coverage outside of the open-enrollment period.

Also on July 5, 2016, NYSOH issued a letter confirming your enrollment in a qualified health plan (QHP) with a monthly premium responsibility of \$226.92, after your APTC of \$238.00 was applied, both effective June 1, 2016.

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On October 29, 2016, you spoke to NYSOH's Account Review Unit and appealed the July 5, 2016 enrollment notice insofar as they began your enrollment in your QHP on June 1, 2016, and not August 1, 2016.

On November 21, 2016, NYSOH issued a disenrollment notice stating that you had been disenrolled from your QHP effective August 31, 2016 for non-payment of premiums.

On December 15, 2016, NYSOH received an update to your application for health insurance.

On December 16, 2016, NYSOH issued a notice stating acknowledging receipt of the update to your application on December 15, 2016. The notice also stated that the information in your application did not match the information NYSOH received from state and federal sources, and that more information was needed to confirm the information contained in your application. You were requested to provide income documentation by December 30, 2016 so that NYSOH could make an appropriate determination.

On December 27, 2016, NYSOH received a letter from you, dated October 14, 2016, detailing the reasons for your appeal of your enrollment in a QHP having been made effective June 1, 2016, rather than August 1, 2016.

On December 30, 2016, you spoke to NYSOH's Account Review Unit and appealed the December 15, 2016 notice insofar as you were not found eligible for Medicaid as of that date.

On January 18, 2017, received (1) a letter from you, dated December 30, 2016, attesting to an income of \$0.00, (2) a gain/loss statement issued to you by [REDACTED] on December 30, 2016 and (3) account statements issued to you by [REDACTED] on July 11, 2016 and August 11, 2016.

On January 25, 2017, NYSOH redetermined your eligibility based on the information contained in your account as of January 25, 2017.

On January 26, 2017, NYSOH issued an eligibility redetermination notice stating that you were eligible for Medicaid, effective January 1, 2017.

On February 5, 2017, NYSOH issued an enrollment notice confirming that you had been enrolled in a Medicaid Managed Care (MMC) plan as of February 4, 2017. Your coverage under this MMC plan will begin effective March 1, 2017.

On February 8, 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 submitted your initial application to NYSOH for financial assistance on July 4, 2016.
- 2) You testified, and the record reflects, that you selected a QHP on July 4, 2016.
- 3) Your enrollment in the QHP became effective June 1, 2016.
- 4) You testified that you were seeking to have your QHP coverage begin effective August 1, 2016, rather than June 1, 2016.
- 5) You testified that you made two payments of \$226.92 for coverage under your QHP. However, you testified that you informed by a representative of your insurance carrier that your coverage began as of June 1, 2016, rather than August 1, 2016.
- 6) You testified that you never made a request to either NYSOH or the insurance carrier to begin your QHP coverage at a date earlier than August 1, 2016.
- 7) You testified that a result of this dispute on your enrollment start date, your QHP coverage was terminated effective August 31, 2016.
- 8) You testified that as a result of your disenrollment, you were concerned that you were going to be assessed a penalty on your taxes for not having had insurance after September 1, 2016.
- 9) You testified that you were no longer seeking to appeal that you had not been found eligible for Medicaid as of your December 15, 2016 application since you had subsequently been found eligible for Medicaid Fee-For-Service coverage effective January 1, 2017, with coverage under your MMC plan beginning March 1, 2017.

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

Applicable Law and Regulations

Special Enrollment Period

After each open enrollment period ends, NYSOH provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP, and an enrollee may change their enrollment to another plan. This is permitted certain triggering events occur (45 CFR § 155.420(d)).

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to *select* a QHP (45 CFR § 155.420(c)(1), emphasis added).

Enrollment in a Qualified Health Plan

The effective date of coverage by a QHP 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)). 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 determine that your enrollment in a qualified health plan was effective June 1, 2016, rather than August 1, 2016.

The record shows that on July 4, 2016, you submitted your initial application to enroll in a QHP. On July 5, 2016, NYSOH issued an enrollment notice stating that your enrollment in your QHP was effective June 1, 2016.

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

Since you selected a plan on July 4, 2016, your coverage should have begun on August 1, 2016. It is noted that federal regulations require that you *select* a plan within 60 days of the triggering event (i.e. losing your former insurance). It does not require that your resulting enrollment also occur within that 60-day period.

Therefore, following the standard rules for enrollment start dates, NYSOH's July 5, 2016 enrollment notice is MODIFIED to state that your QHP coverage began effective August 1, 2016.

Your case is RETURNED to NYSOH to facilitate with your insurance carrier to reflect a correction of the start date from June 1, 2016 to August 1, 2016, and to determine whether a reimbursement, if any, is appropriate.

The second issue under review is whether NYSOH properly determined that you were not found eligible for Medicaid as a result of your December 15, 2016 application.

You testified during the hearing that you were no longer seeking to appeal the finding that you were ineligible for Medicaid as of your December 15, 2016 application, because you had subsequently been found eligible for Medicaid Fee-For-Service coverage effective January 1, 2017 and coverage under your MMC plan beginning March 1, 2017.

Accordingly, NYSOH Appeals Unit will not review your appeal with respect to the December 16, 2016 notice at this time.

Finally, during the hearing, you testified that you are concerned about receiving a tax penalty as a result of being without coverage between September 1, 2016 and December 31, 2016.

Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. You might qualify for a health coverage exemption in 2016 if you didn't have health coverage while you were waiting for an appeal decision about coverage eligibility or savings and your appeal was eventually successful.

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

You will find the information you need to claim the exemption due to an appeal decision at <https://www.healthcare.gov/exemptions-tool/#/results/2016/details/eligible-based-on-appeal>. You can also call 1-800-318-2596.

Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word "pending" in column "c" and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

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).

Decision

The July 5, 2016 enrollment notice is MODIFIED to state that your QHP coverage began effective August 1, 2016.

Your case is RETURNED to NYSOH to facilitate with your insurance carrier to reflect a correction of the start date from June 1, 2016 to August 1, 2016, and to determine whether a reimbursement amount, if any, is appropriate.

NYSOH Appeals Unit will not review your appeal with respect to the December 16, 2016 notice at this time.

Effective Date of this Decision: March 6, 2017

How this Decision Affects Your Eligibility

Your QHP coverage began effective August 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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The July 5, 2016 enrollment notice is MODIFIED to state that your QHP coverage began effective August 1, 2016.

Your case is RETURNED to NYSOH to facilitate with your insurance carrier to reflect a correction of the start date from June 1, 2016 to August 1, 2016, and to determine whether a reimbursement amounts, if any, is appropriate.

NYSOH Appeals Unit will not review your appeal with respect to the December 16, 2016 notice at this time.

Your QHP coverage began effective August 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:

