



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

Notice of Decision

Decision Date: March 21, 2017

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP0000000012901

[REDACTED]

Dear [REDACTED],

On January 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 2016 eligibility determination notice and 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).

This page intentionally left blank.



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

Decision

Decision Date: March 21, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012901

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine your eligibility to enroll in the Essential Plan ended effective October 31, 2016?

Procedural History

On November 24, 2015, NYSOH issued a notice of eligibility determination, based on your November 18, 2015 updated application, stating you were eligible to enroll in the Essential Plan for a limited time, effective January 1, 2016. The notice directed you to provide documentation confirming your income before February 16, 2016 or you might lose your eligibility for health insurance and/or financial assistance.

On December 15, 2015, NYSOH issued a notice of enrollment confirmation, based on your December 14, 2015 plan selection, stating you were enrolled in the Essential Plan, effective January 1, 2016.

On September 18, 2016, NYSOH issued an eligibility determination notice stating you were newly eligible to purchase a qualified health plan at full cost. The notice stated 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 November 1, 2016.

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).

Also on September 18, 2016, NYSOH issued a disenrollment notice stating your enrollment in the Essential Plan would end as of October 31, 2016, because you were no longer eligible to remain in your plan.

On October 28, 2016, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating you were eligible to enroll in the Essential Plan and you selected a plan for enrollment.

Also on October 28, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan for the month of November 2016.

On October 29, 2016, NYSOH issued a notice of eligibility determination, based on your October 28, 2016 updated application, stating you were eligible to enroll in the Essential Plan for a limited time, effective December 1, 2016. The notice directed you to provide documentation confirming your income before January 26, 2017 or you may lose your health insurance or receive less help paying for your coverage.

Also on October 29, 2016, NYSOH issue a notice of enrollment confirmation, based on your plan selection on October 28, 2016, stating that you were enrolled in the Essential Plan, effective December 1, 2016.

On January 31, 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 14, 2017, to allow you to submit supporting documents.

On January 31, 2017, the Appeals Unit received a facsimile confirmation page dated February 15. This document was marked as Appellant's Exhibit A and added to the record.

On February 10, 2017, the Appeals Unit received a hand written letter requesting assistance with issues related to attached form 1095-B. This document was not marked.

The record thereafter closed.

Findings of Fact

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

- 1) You testified, and your application indicates, you receive all of your notices from NYSOH by regular mail.
- 2) You testified you received the November 24, 2015 notice stating your eligibility to enroll in the Essential Plan was only conditional and

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).

directing you to provide proof of your income to confirm your eligibility by February 16, 2016.

- 3) You testified you faxed NYSOH copies of your 2014 and 2015 tax returns on February 15, 2016 to satisfy the request for proof of your income.
- 4) You submitted a one-page document you alleged was confirmation NYSOH received the income documentation you faxed on February 15, 2016 ([REDACTED]).
- 5) This document includes a fax number of [REDACTED] which is the fax number to submit income documentation as provided by NYSOH on the November 24, 2015 eligibility determination notice.
- 6) This document indicates the transmission occurred on February 15; however, the document does not contain information indicating what year the transmission occurred, nor does it contain even a partial image of the faxed document.
- 7) The document indicates the transmission was four pages and that the result was "OK."
- 8) There are no notices issued by NYSOH indicating your 2014 and 2015 tax returns were invalidated as proof of your income.
- 9) You testified you believed the documentation submitted on February 15, 2016 satisfied NYSOH's request for income documentation.
- 10) Your NYSOH account indicates that on September 17, 2016, your eligibility was systematically redetermined and you were found no longer eligible for the Essential Plan as of October 31, 2016.
- 11) You testified you received the September 18, 2016 eligibility determination notice indicating you were newly eligible to purchase a full cost qualified health plan. However, you testified you did not receive the disenrollment notice.
- 12) You testified you contacted NYSOH on October 28, 2016 to update your account and you were informed by the representative that NYSOH did not receive your income documentation in February 2016.
- 13) You testified you re-enrolled into an Essential Plan during the telephone call on October 28, 2016, at which time you learned your coverage would not begin until December 1, 2016, resulting in a gap in coverage for the month of November 2016.

- 14) You testified you did not contact NYSOH prior to October 28, 2016 to re-enroll because you believed the September 18, 2016 eligibility determination notice indicated you had until November 16, 2016 to pick a new plan.
- 15) You testified, and your account confirms, that on October 28, 2016 you uploaded four pages of documents consisting of signed copies of your 1040 forms from your 2014 and 2015 tax returns.
- 16) NYSOH verified your 2015 1040 form on November 9, 2016 and you were determined fully eligible to enroll in the Essential Plan as of December 1, 2016.
- 17) Your account indicates you had a gap in health coverage through NYSOH for the month of November 2016.
- 18) You testified you are seeking reinstatement of your Essential Plan for the month of 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)).

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 your 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 November 24, 2015, you were advised you were eligible for the Essential Plan for a limited time, and you needed to

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).

confirm your household's income before February 16, 2016. You testified you received this notice from NYSOH. Therefore, it is concluded NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in your application.

You further testified you faxed NYSOH income documentation consisting of copies of your 2014 and 2015 tax returns on February 15, 2016 to satisfy the outstanding demand. There is no evidence in your account that this information was received by NYSOH and uploaded to your account at this time. However, you submitted a document appearing to be a confirmation of the alleged transmission. This document indicates a fax transmission, consisting of four pages, was received on February 15th at the same fax number NYSOH provided in the November 24, 2015 eligibility determination notice.

Although the fax confirmation indicates the transmission was received on February 15th, this date does not include the year. However, the record contains information corroborating this evidence, such as the income documentation uploaded to your NYSOH account on October 28, 2016 also consisting of four pages. The date on the confirmation page, February 15th, was the day prior to the February 16, 2016 deadline as stated in the November 24, 2015 notice, and the fax number on the confirmation page is, in fact, NYSOH's correct fax number.

Therefore, based on this credible evidence, it is determined that you submitted a copy of your 1040 forms from your 2014 and 2015 tax returns to NYSOH on February 15, 2016.

You also testified you had no reason to believe the documentation submitted on February 15, 2016 did not confirm your eligibility to remain enrolled in the Essential Plan, and there were no notices issued by NYSOH indicating your 2014 and 2015 tax returns were insufficient proof of your income. In fact, this documentation was verified by NYSOH on November 9, 2016 and, thereafter, you were determined fully eligible to enroll in the Essential Plan as of December 1, 2016.

Accordingly, as the evidence of record establishes you submitted adequate documentation to confirm your income proper to the expiration of the deadline for such information, the September 18, 2016 eligibility determination notice stating you did not qualify for the Essential Plan because NYSOH did not receive the income documentation needed to verify the income listed in your application, is not correct and is RESCINDED.

Additionally, the September 18, 2016 disenrollment notice stating your Essential Plan was terminated, effective October 31, 2016, because you were no longer eligible to remain enrolled in the plan, is not correct and is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your Essential Plan for the month of November 2016.

It is noted the documentation you submitted to the Appeals Unit on February 10, 2017 (later uploaded to your NYSOH account on February 15, 2017 [REDACTED]), consisting of a hand written letter from you requesting assistance with issues related to attached form 1095-B, is unrelated to the issue under appeal, which is whether NYSOH properly terminated your Essential Plan for the month of November 2016. Accordingly, this document was not marked and was not made part of the record on appeal.

Decision

The September 18, 2016 notice of eligibility determination is RESCINDED.

The September 18, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your Essential Plan for the month of November 2016.

Effective Date of this Decision: March 21, 2017

How this Decision Affects Your Eligibility

NYSOH improperly found you not eligible to enroll in the Essential Plan because you did not provide documentation of your household's income

Your case is being sent back to NYSOH to reinstate your Essential Plan 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 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.

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).

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 September 18, 2016 notice of eligibility determination is RESCINDED.

The September 18, 2016 disenrollment notice is RESCINDED.

NYSOH improperly found you not eligible to enroll in the Essential Plan because you did not provide documentation of your household's income.

Your case is being sent back to NYSOH to reinstate your Essential Plan for the month of November 2016.

Legal Authority

We are issuing this determination in accordance with 45 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).

A Copy of this Decision Has Been Provided To:

