



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

Notice of Decision

Decision Date: February 16, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012985

[REDACTED]

Dear [REDACTED],

On February 8, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 16, 2016 eligibility determination notice, the November 2, 2016 eligibility determination notice and the November 2, 2016 enrollment confirmation 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: February 16, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012985



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 eligibility for the Essential Plan ended effective October 31, 2016?

Did NYSOH properly determine that your eligibility for and enrollment in the Essential Plan was effective December 1, 2016?

Procedural History

On November 24, 2015, NYSOH issued an eligibility determination notice stating that you were newly eligible to receive advance premium tax credits, effective January 1, 2016.

On December 20, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a silver level qualified health plan, effective January 1, 2016.

On July 5, 2016, NYSOH issued an eligibility determination notice stating that you were not qualified to enroll in coverage through NYSOH because sources were showing that you were receiving third party health insurance (TPHI) and that your eligibility would end effective July 31, 2016.

Also on July 5, 2016, NYSOH issued a disenrollment notice stating that your coverage through your silver level qualified health plan would end effective July 31, 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).

On July 11, 2016, NYSOH reran your application for health insurance.

On July 12, 2016 NYSOH issued an eligibility determination notice stating that you 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 October 9, 2016.

Also on July 12, 2016, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective August 1, 2016. The notice further stated that you needed to submit proof of your income by October 9, 2016 or your health insurance could be cancelled.

On October 16, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost. The notice stated that 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.

On October 17, 2016, NYSOH issued a disenrollment notice stating that 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 November 1, 2016, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible to enroll in the Essential Plan and you selected a plan for enrollment.

Also on November 1, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan for the month of November 2016.

On November 2, 2016 NYSOH issued a notice of eligibility determination, based on your November 1, 2016 application, stating that you were eligible to enroll in the Essential Plan for a limited time, effective December 1, 2016. The notice further directed you to provide documentation confirming your income before January 30, 2017.

Also on November 2, 2016, NYSOH issue a notice of enrollment confirmation, based on your plan selection on November 1, 2016, stating that you were enrolled in an Essential Plan effective December 1, 2016.

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 testified that in early July 2016 you were disenrolled from your previous plan through NYSOH because the system detected incorrect information about outside insurance coverage.
- 2) On July 11, 2016 your NYSOH account was updated and you were enrolled in an Essential Plan contingent on you providing proof of your income.
- 3) You testified that you received the July 12, 2016 eligibility determination notice requesting that you submit income documentation sometime in July 2016.
- 4) You testified that you received the July 12, 2016 enrollment confirmation notice stating that you were enrolled into an Essential Plan. You testified that after receiving this notice you thought that you did not need to supply income documentation because it said you were enrolled into a plan.
- 5) The fourth page of the July 12, 2016 enrollment confirmation notice states that you needed to submit proof of your income by October 9, 2016 or your health insurance could be cancelled.
- 6) You testified that at the time you received the July 12, 2016 enrollment confirmation notice you did not read the fourth page.
- 7) Your NYSOH account indicates that on October 15, 2016, your application was run and you were found no longer eligible for the Essential Plan as of October 31, 2016.
- 8) You testified that you first became aware that there was an issue with your account when you received the October disenrollment notice.
- 9) You testified that you were confused by the disenrollment because you thought that everything had been taken care of in July when you were disenrolled for the third party health insurance issue.
- 10) You submitted income documentation to NYSOH on November 2, 2016.
- 11) You updated the income information in your NYSOH account on November 1, 2016.

- 12) You testified that you are seeking enrollment in your 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)).

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

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).

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 eligibility for the Essential Plan ended effective October 31, 2016.

On July 11, 2016, your NYSOH account was updated and you were enrolled in an Essential Plan contingent on you providing proof of your income.

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 July 12, 2016 you were advised that you were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income before October 9, 2016.

You testified that you received the July 12, 2016 eligibility determination notice requesting that you submit income documentation sometime in July 2016.

Also on July 12, 2016, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective August 1, 2016. You testified that when you received the notice confirming your enrollment you thought that you did not need to supply income documentation because it said you were enrolled into a plan. However, the fourth page of the July 12, 2016 enrollment confirmation notice also states that you needed to submit proof of your income by October 9, 2016 or your health insurance could be cancelled. You testified that at the time you received the July 12, 2016 enrollment confirmation notice you did not read the fourth page.

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).

Since you testified that you received the notices, NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

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 did not receive any income documentation from you before October 9, 2016. Accordingly, your 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.

You also testified that in early July 2016 you were disenrolled from your previous plan through NYSOH because the system detected incorrect information about outside insurance coverage. You testified that you were confused by the disenrollment because you thought that everything had been taken care of in July when you were disenrolled for the third party health insurance issue. The detection of third party health insurance is a separate issue from being unable to confirm an applicant's income attestation and does not have any bearing on your disenrollment from the Essential Plan as of October 31, 2016.

Therefore, the October 16, 2016 eligibility determination notice is AFFIRMED.

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

You testified that you first became aware that there was an issue with your account when you received the October disenrollment notice.

You testified, and your account confirms, that you updated your NYSOH application on November 1, 2016. That day, you selected an Essential Plan for 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 November 1, 2016 you selected an Essential Plan, your enrollment would properly take effect on the first day next month following month after November; that is, on December 1, 2016.

Therefore, the November 2, 2016 eligibility determination notice, and the November 2, 2016 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective December 1, 2016, is correct and must be AFFIRMED.

Decision

The October 16, 2016 notice of eligibility determination is AFFIRMED.

The November 2, 2016 notice of eligibility determination is AFFIRMED.

The November 2, 2016 notice of enrollment is AFFIRMED.

Effective Date of this Decision: February 16, 2017

How this Decision Affects Your Eligibility

NYSOH properly found you not eligible to enroll in the Essential Plan effective November 1, 2016 because you did not provide documentation of your household's income.

NYSOH properly found that your 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

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).

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 October 16, 2016 notice of eligibility determination is AFFIRMED.

NYSOH properly found you not eligible to enroll in the Essential Plan effective November 1, 2016 because you did not provide documentation of your household's income.

The November 2, 2016 notice of eligibility determination is AFFIRMED.

The November 2, 2016 notice of enrollment is AFFIRMED
NYSOH properly found that your reenrollment in the Essential Plan was effective December 1, 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:

