



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

Notice of Decision

Decision Date: February 21, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013025

[REDACTED]

Dear [REDACTED],

On February 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 2016 disenrollment notice, the October 8, 2016 eligibility determination notice and the November 3, 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.

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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 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 December 11, 2015, NYSOH received your updated application for health insurance as well as income documentation.

On December 12, 2015, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective January 1, 2016. The notice further directed you to provide documentation confirming your income before March 10, 2016.

On December 12, 2015, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective January 1, 2016.

The income documentation you submitted on December 11, 2015 was invalidated on December 17, 2015.

NYSOH issued letters on December 18, 2015, and January 11, 2016 stating that the documentation you submitted was insufficient and more income documentation was required to resolve the inconsistency in your account.

On September 18, 2016, NYSOH issued an eligibility redetermination notice stating more information was required to confirm your eligibility. The notice stated this was because the income information in your application does not match what NYSOH received from state and federal data sources.

On September 18, 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 September 28, 2016, you updated your application for financial assistance.

On October 8, 2016, NYSOH issued a notice of eligibility determination, based on the September 28, 2016 application, stating that you were eligible to enroll in the Essential Plan, effective November 1, 2016. The notice stated the income listed in your application was \$26,076.68.

On November 2, 2016, you enrolled in an Essential Plan effective December 1, 2016.

On November 2, 2016, you spoke to NYSOH's Account Review Unit and appealed the enrollment start date of your Essential Plan effective December 1, 2016, requesting a backdated to November 1, 2016.

Also on November 3, 2016, NYSOH issue a notice of enrollment confirmation, based on your plan selection on November 2, 2016, stating that you were enrolled in an Essential Plan effective December 1, 2016.

On February 10, 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 proceeding.

Findings of Fact

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

- 1) You testified that you received all of your notices from NYSOH via regular mail, and then changed to e-mail alerts in November, 2016.
- 2) You testified that you did not remember receiving any notices stating that your eligibility was only conditional and that you needed to provide documentation of your household's income by March 10, 2016.

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- 3) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 4) You testified that you did not know that you needed to submit documentation of your income until you received the September 18, 2016 notice stating more information was required to make a determination on your eligibility.
- 5) The record supports and you confirmed that the December 12, 2015 notice was issued to your correct address.
- 6) Your NYSOH account indicates that on September 17, 2016 your application was run and you were found no longer eligible for the Essential Plan as of October 31, 2016.
- 7) You submitted income documentation to NYSOH on September 19, 2016, and September 27, 2016.
- 8) An NYSOH agent updated the income information in your NYSOH account on September 28, 2016 based on income documentation you provided.
- 9) You reenrolled in the Essential Plan on November 2, 2016, with an effective date of December 1, 2016.
- 10) You testified that you are seeking enrollment in your Essential Plan as of November 1, 2016.
- 11) You testified you did not incur medical expenses for the month you were without coverage in 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

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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 first issue under review is whether NYSOH properly determined that 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 December 12, 2015, 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 March 10, 2016.

You testified that you did not receive any notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. You testified, that you elected to receive notifications by regular mail at the time of the December 12, 2015 eligibility determination notice. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

The December 12, 2015 notice was issued to your correct address which you confirmed during your hearing. Additionally, NYSOH issued letters on December 18, 2015, and January 11, 2016 stating more information was required to that same address.

Therefore, 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.

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.

Therefore, the September 18, 2016 disenrollment 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, and your account confirms, that you updated your NYSOH account on September 19, and September 27, 2016 with income documentation, which was verified on September 28, 2016.

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NYSOH then issued a notice of eligibility determination on October 8, 2016, stating that you were eligible to enroll in the Essential Plan, effective November 1, 2016.

It was not until November 2, 2016, that you enrolled in an Essential Plan effective December 1, 2016.

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 2, 2016, you selected an Essential Plan, your enrollment would properly take effect on the first day of the month following November; that is, on December 1, 2016.

Therefore, the October 8, 2016 eligibility determination notice, and the November 3, 2016 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective December 1, 2016, are correct and must be AFFIRMED.

Decision

September 18, 2016 disenrollment notice is AFFIRMED.

The October 8, 2016 notice of eligibility determination is AFFIRMED.

The November 3, 2016 notice of enrollment is AFFIRMED.

Effective Date of this Decision: February 21, 2017

How this Decision Affects Your Eligibility

NYSOH properly found you not eligible to enroll in the Essential Plan effective October 31, 2016 because you did not provide documentation of your household's income.

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).

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 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:
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Summary

September 18, 2016 disenrollment notice is **AFFIRMED**.

The October 8, 2016 notice of eligibility determination is **AFFIRMED**.

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The November 3, 2016 notice of enrollment is AFFIRMED.

NYSOH properly found you not eligible to enroll in the Essential Plan effective October 31, 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.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

