



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

Notice of Decision

Decision Date: February 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013150

[REDACTED]

Dear [REDACTED],

On February 16, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's September 19, 2016 eligibility determination notice, the October 26, 2016 eligibility determination notice and the October 26, 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).

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Decision Date: February 22, 2017

NY State of Health Account ID: [REDACTED]
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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 and your spouse's eligibility for the Essential Plan ended effective October 31, 2016?

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

Procedural History

On April 23, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective June 1, 2016. The notice further directed you to provide documentation confirming your household income before July 21, 2016.

On April 23, 2016, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective June 1, 2016.

On September 19, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a qualified health plan at full cost. The notice stated that you and your spouse 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 September 19, 2016, NYSOH issued a disenrollment notice stating that your and your spouse's enrollment in the Essential Plan would end as of October 31, 2016, because you and your spouse were no longer eligible to remain in your plan.

On October 25, 2016, you updated your and your spouse's application for financial assistance.

On October 26, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to enroll in the Essential Plan, effective December 1, 2016.

Also on October 26, 2016, NYSOH issue a notice of enrollment confirmation, based on your plan selection on October 25, 2016, stating that you and your spouse were enrolled in an Essential Plan effective December 1, 2016.

On November 8, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan for the month of November 2016.

On February 16, 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 could not recall if you received the April 23, 2016 notice stating that your and your spouse's eligibility was only for a limited time and that you needed to provide documentation of your household's income.
- 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 household income because you had authorized NYSOH to access your tax information.
- 5) Your NYSOH account indicates that on September 18, 2016, your application was run and you and your spouse were found no longer eligible for the Essential Plan as of October 31, 2016.

- 6) You updated the income information in your NYSOH account on October 25, 2016.
- 7) You testified that you are seeking for yourself and your spouse to not have a lapse in your Essential Plan coverage.

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)).

Essential Plan Renewal

In general, NYSOH will review Essential Plan eligibility no more frequently than once every 12 months from the effective date of eligibility as long as enrollees are under age 65, not enrolled in minimum essential coverage, remain state residents, and do not have any changes in circumstances. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12 month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or changes in circumstances (42 CFR § 600.340(a); 42 CFR § 600.320(d); NY Social Services Law § 369-gg(3) and (4)(d)); New York's Basic Health Plan Blueprint, pp. 8 and 16, as approved January 2016; *see* <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (42 CFR § 600.340(e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (42 CFR § 600.345; (NY Social Services Law § 369-gg(4)(c); 45 CFR § 155.335(g); New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; *see* <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your spouse'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 March 23, 2016, you were advised that you and your spouse were eligible for the Essential Plan for a limited time, and that you needed to confirm your household's income before July 21, 2016.

You testified that you could not recall receiving any notice from NYSOH telling you that you needed to provide income documentation to confirm your and your spouse's eligibility. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

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 and your spouse's 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 household income.

Therefore, the September 19, 2016 eligibility determination notice is **AFFIRMED**.

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

You testified, and your account confirms, that you updated your and your spouse's NYSOH application on October 25, 2016. That day you selected an Essential Plan for yourself and your spouse 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 October 25, 2016, you selected an Essential Plan for yourself and your spouse, your and your spouse's enrollment would properly take effect on the first day of the second month following October 25, 2016; that is, on December 1, 2016.

Therefore, the October 26, 2016 eligibility determination notice, and the October 26, 2016 enrollment confirmation notice stating that your and your spouse's enrollment in the Essential Plan was effective December 1, 2016, is correct and must be AFFIRMED.

Decision

The September 19, 2016 notice of eligibility determination is AFFIRMED.

The October 26, 2016 notice of eligibility determination is AFFIRMED.

The October 26, 2016 notice of enrollment is AFFIRMED.

Effective Date of this Decision: February 22, 2017

How this Decision Affects Your Eligibility

NYSOH properly found you and your spouse 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 and your spouse's reenrollment in the Essential Plan was effective December 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).

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 September 19, 2016 notice of eligibility determination is **AFFIRMED**.

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

The October 26, 2016 notice of eligibility determination is **AFFIRMED**.

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).

The October 26, 2016 notice of enrollment is AFFIRMED.

NYSOH properly found that your and your spouse's 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:

