



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

Notice of Decision

Decision Date: March 08, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013162

[REDACTED]

Dear [REDACTED],

On February 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 26, 2016 eligibility determination notice and November 10, 2016 enrollment 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 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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Issue

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

Did NY State of Health (NYSOH) properly determine you were no longer eligible to remain enrolled in your Essential Plan, due to having Medicare, effective November 1, 2016?

Procedural History

On December 14, 2015, NYSOH received your updated application for health insurance.

On December 15, 2015, NYSOH issued an eligibility determination notice, based on your December 14, 2015 application, stating you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective January 1, 2016. The determination was based on your attested household income of \$40,000.00.

Also on December 15, 2015, NYSOH issued an enrollment notice confirming your selection of an Essential Plan as of December 14, 2016. The notice stated that your Essential Plan coverage would begin effective January 1, 2016.

On October 25, 2016, NYSOH received two updates to your application for health insurance.

On October 26, 2016, NYSOH issued an eligibility redetermination notice based on the last application update received on October 25, 2016. The notice stated

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that you were no longer qualified for coverage under the Essential Plan because federal and stated sources show that you were receiving Medicare.

Also on October 26, 2016, NYSOH issued a disenrollment notice stating that your Essential Plan coverage would end effective October 31, 2016 because you were no longer eligible to enroll in health insurance through NYSOH.

On November 3, 2016, NYSOH received a letter issued to you by the Social Security Administration (SSA), dated October 26, 2016, stating that your Medicare Parts A & B coverage terminated effective January 1, 2001.

On November 7, 2016, NYSOH received a further update to your application for health insurance.

On November 8, 2016, NYSOH issued an eligibility redetermination notice based on the information in the November 7, 2016 update to your application. The notice stated that you were eligible to enroll in the Essential Plan effective December 1, 2016.

On November 9, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential Plan insofar as it did not begin November 1, 2016.

On November 10, 2016, NYSOH issued an enrollment notice confirming your selection of an Essential Plan as of November 8, 2016. The notice stated that your coverage would begin 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 the hearing.

Findings of Fact

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

- 1) You testified that you are seeking an appeal with respect to your own eligibility only.
- 2) You had enrolled in an Essential Plan effective January 1, 2016.
- 3) The record reflects that you updated your account twice on October 25, 2016. You testified that you did not recall contacting NYSOH at that time.

- 4) Neither of the application updates submitted on October 25, 2016 reflect that there was a response from state and federal sources that you had been enrolled in Medicare, or a separate third-party health insurance plan.
- 5) Your Essential Plan coverage was terminated effective October 31, 2016 due to state and federal sources detecting that you had currently been enrolled in Medicare.
- 6) You testified that you did not learn of your disenrollment from the Essential Plan until you received the October 26, 2016 disenrollment notice.
- 7) You testified, and provided documentation on November 3, 2016, that you had not been enrolled in Medicare since January 1, 2001.
- 8) You testified that you have not been enrolled in any kind of public coverage since January 1, 2001. You further testified that you were most recently enrolled in a qualified health plan through NYSOH during the 2015 plan year.
- 9) The record reflects that you were subsequently reenrolled in your Essential Plan coverage effective December 1, 2016, though you testified that your coverage under this plan did not begin until January 1, 2017.
- 10) You reenrolled in your Essential Plan on November 8, 2016.
- 11) You testified that you were seeking to be reinstated in your Essential Plan during the months of November and December 2016 since you incurred substantial medical expenses during that time.

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

Applicable Law and Regulations

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

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§ 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan 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); see *also* 42 CFR § 600.320). 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 only issue under review is whether NYSOH properly determined you were no longer eligible to remain enrolled in your Essential Plan due to having Medicare, effective November 1, 2016.

The record reflects that you were found eligible for and enrolled in an Essential Plan on December 14, 2016. Your coverage under this plan began effective January 1, 2016.

NYSOH must generally determine an applicant eligible for the Essential Plan if the individual is not otherwise eligible for minimum essential coverage except through the individual market.

The record reflects that you provided two additional updates to your application on October 25, 2016, and that the system allegedly detected that you were enrolled in minimum essential coverage. The eligibility determination notice issued on October 26, 2016 stated specifically that you had been disenrolled from your Essential Plan since you were found to have been enrolled in Medicare. As a result, your Essential Plan was terminated effective October 31, 2016.

The record further reflects that on November 3, 2016, you provided a notice from SSA stating that you had not been enrolled in Medicare since January 1, 2001.

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You credibly testified that since your disenrollment from Medicare, you had not been enrolled in any other public health insurance, and most recently were only enrolled in a QHP through NYSOH during the 2015 plan year.

It must also be noted that the two application updates received by NYSOH on October 25, 2016 appear not to have resulted in a response from state and federal sources that you had been enrolled in Medicare.

According to your NYSOH account, you have had seamless insurance coverage through NYSOH since January 1, 2015 until October 31, 2016. The fact that you were required to show proof of having been disenrolled from Medicare, a plan from which your coverage ended on January 1, 2001, before the existence of NYSOH and after you have remained eligible for insurance through NYSOH since January 1, 2015, permits the conclusion that the disenrollment from your Essential Plan was improper.

Therefore, the October 26, 2016 eligibility redetermination notice is **RESCINDED**.

Furthermore, the November 8, 2016 enrollment notice is **MODIFIED** to state that your Essential Plan coverage began effective November 1, 2016.

Your case is **RETURNED** to NYSOH to reinstate your Essential Plan coverage between November 1, 2016 and December 31, 2016. Please note, however, that you will be responsible for all premiums due in connection with the reinstatement of your Essential Plan coverage during the period.

This Decision has no effect on any subsequent determinations issued on or after November 8, 2016.

Decision

The October 26, 2016 eligibility redetermination notice is **RESCINDED**.

The November 10, 2016 enrollment notice is **MODIFIED** to state that your Essential Plan coverage began effective November 1, 2016.

Your case is **RETURNED** to NYSOH to reinstate your Essential Plan coverage between November 1, 2016 and December 31, 2016. Please note, however, that you will be responsible for all premiums due, if any, in connection with the reinstatement of your Essential Plan coverage during this period.

This Decision has no effect on any subsequent determinations issued on or after the November 10, 2016 enrollment notice.

Effective Date of this Decision: March 08, 2017

How this Decision Affects Your Eligibility

Your Essential Plan coverage is reinstated for the period between November 1, 2016 and December 31, 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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- By fax: 1-855-900-5557

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Summary

The October 26, 2016 eligibility redetermination notice is RESCINDED.

The November 10, 2016 enrollment notice is MODIFIED to state that your Essential Plan coverage began effective November 1, 2016.

Your case is RETURNED to NYSOH to reinstate your Essential Plan coverage between November 1, 2016 and December 31, 2016. Please note, however, that you will be responsible for all premiums due, if any, in connection with the reinstatement of your Essential Plan coverage during this period.

This Decision has no effect on any subsequent determinations issued on or after the November 10, 2016 enrollment notice.

Your Essential Plan coverage is reinstated for the period between November 1, 2016 and December 31, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

