



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

Notice of Decision

Decision Date: March 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013200

[REDACTED]

Dear [REDACTED],

On February 15, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 2016 eligibility determination and disenrollment notices.

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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Decision

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013200



Issue

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

Did NY State of Health (NYSOH) properly determine that you were no longer eligible for the Essential Plan and properly disenrolled you from your plan effective October 31, 2016?

Procedural History

On February 17, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan for a limited time effective as of April 1, 2016. The notice directed you to submit additional income documentation to confirm your eligibility before May 16, 2016.

On March 3, 2016, NYSOH issued an enrollment notice confirming that you were enrolled in an Essential Plan with an enrollment start date of April 1, 2016. The notice also directed you to submit additional income documentation to confirm your eligibility before May 16, 2016.

On September 17, 2016, NYSOH updated your account.

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

On September 18, 2016, NYSOH issued a disenrollment notice stating that your Essential Plan would terminate October 31, 2016, because you were no longer eligible to remain enrolled in your current health insurance.

On November 10, 2016, your NYSOH account was updated.

Also on November 10, 2016, you contacted NYSOH's Account Review Unit and requested an appeal insofar as you had been disenrolled from your Essential Plan effective October 31, 2016.

On November 11, 2016, NYSOH issued an eligibility determination notice that stated you were eligible to enroll in the Essential Plan effective December 1, 2016.

Also on November 11, 2016, NYSOH issued an enrollment notice confirming that, based on your plan selection on November 10, 2016, you were enrolled in an Essential Plan with an enrollment start date of December 1, 2016.

On February 15, 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) According to your NYSOH account, you receive all of your notices from NYSOH electronically.
- 2) You testified that you have never changed the manner in which you receive notices from NYSOH.
- 3) According to your NYSOH account, you were enrolled in an Essential Plan effective April 1, 2016.
- 4) You testified that you did not receive any electronic alerts notifying you of any notice in your NYSOH account stating that your eligibility was only conditional and that you needed to provide documentation of your income.
- 5) You testified that you discovered that your Essential Plan had been terminated when you were picking up prescriptions at a pharmacy in November 2016.

- 6) You testified that you contacted NYSOH in November 2016 and were notified that your Essential Plan was terminated for failing to provide income documentation.
- 7) You testified that you are seeking reinstatement of your Essential Plan for the month of November 2016 to cover the medical expenses you incurred in that month.

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

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow the NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i)). If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f); 42 CFR §600.345 (a)) See also 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>).

NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence (45 CFR §155.315(f)(2)). If NYSOH remains unable to verify the information required to determine the applicant's eligibility after the 90 day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

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).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

Legal Analysis

The 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 notices issued on February 17, 2016 and March 3, 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 May 16, 2016.

The record reflects that NYSOH did not receive the requested income documentation before the May 16, 2016 deadline.

However, the record also reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the eligibility determination notice, which advised you that your eligibility was only conditional and that you needed to submit documentation to confirm your income. There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation, nor is there any evidence that the notice was sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit documentation of your income in order to confirm your eligibility for the Essential Plan.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the September 18, 2016 eligibility determination and disenrollment notices, stating that you were no longer eligible for the Essential Plan are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan as of November 1, 2016.

Decision

The September 18, 2016 eligibility determination notice is RESCINDED.

The September 18, 2016, disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan as of November 1, 2016 and to notify you accordingly.

Effective Date of this Decision: March 10, 2017

How this Decision Affects Your Eligibility

NYSOH improperly terminated your Essential Plan effective October 31, 2016 without properly notifying you of the need for additional income documentation.

Your case is being sent back to NYSOH to reinstate your coverage in your Essential Plan as of November 1, 2016. NYSOH will notify you once this has done.

If applicable, you will be responsible for paying the health plan any premium due 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.

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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 18, 2016 eligibility determination notice is RESCINDED.

The September 18, 2016, disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan as of November 1, 2016 and to notify you accordingly.

NYSOH improperly terminated your Essential Plan effective October 31, 2016 without properly notifying you of the need for additional income documentation.

Your case is being sent back to NYSOH to reinstate your coverage in your Essential Plan as of November 1, 2016. NYSOH will notify you once this has done.

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If applicable, you will be responsible for paying the health plan any premium due for the month of November 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

