



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

Notice of Decision

Decision Date: March 02, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013261

[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 notice, November 15, 2016 eligibility determination notice, and November 15, 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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Decision Date: March 02, 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 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 15, 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 13, 2016.

On December 19, 2015, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective January 1, 2016.

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. 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.

Also 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.

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On November 14, 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 14, 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 15, 2016, NYSOH issued a notice of eligibility determination, based on your November 14, 2016 application, stating that you were eligible to enroll in the Essential Plan for a limited time, effective December 1, 2016.

Also on November 15, 2016, NYSOH issue a notice of enrollment confirmation, based on your plan selection on November 14, 2016, stating that you were enrolled in an Essential Plan effective 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) You testified, and your application indicates, that you receive all of your notices from NYSOH by regular mail.
- 2) You testified that you were aware that your eligibility for the Essential Plan was only conditional and that you needed to provide documentation of your household's income.
- 3) You testified that, at some point after you were found eligible, you spoke with someone at NYSOH to explain that you were self-employed, and that you did not have paystubs to provide. You also informed them that you had received an extension of the deadline for filing your income tax return.
- 4) You testified that the person you spoke with told you that you needed to supply income documentation by the end of September 2016, and that you could supply a profit and loss statement as documentation of your income.
- 5) You testified that you believe you submitted a profit and loss statement by fax to NYSOH sometime around the end of August 2016. You

testified that you do not have a confirmation of this because you were in the process of moving to a new office at that time.

- 6) You testified that, as of the end of August 2016, both of your children were very ill and were hospitalized, and that you had also lost your lease on your office. You testified that all of this happened within [REDACTED], and that you were under tremendous stress at this time.
- 7) You testified that it is possible that you thought you sent the documentation, and did not actually send it, or that you sent it to the wrong place, given the amount of stress you were under at the time.
- 8) Your NYSOH account does not contain any income documentation received in 2016.
- 9) You testified that you put in a change of address with the post office on September 19, 2016 because you had been having problems receiving your mail, and that your mail was forwarded to your new address following that date.
- 10) You testified that, in November 2016, you logged into your NYSOH account to renew your coverage for 2017, and discovered that your coverage had terminated, and that your account contained a letter from September 2016 informing you of this information.
- 11) You testified that you did not receive the September 18, 2016 notices informing you that you were no longer eligible for the Essential Plan, and that you were disenrolled from your coverage as of October 31, 2016.
- 12) You testified that, after you saw NYSOH had mailed you a letter just before you changed your mailing address, you went back to your old mailbox to see if the letter was there, but that any mail that was there had been returned to the sender.
- 13) No notices that were sent to the address listed on your NYSOH account at that time were returned to NYSOH as undeliverable.
- 14) 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.
- 15) You updated the income information in your NYSOH account on November 14, 2016, and uploaded income documentation to your account on February 2, 2017.

- 16) You testified that you are seeking enrollment in your Essential Plan as of November 1, 2016, as you have medical bills from that month.

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

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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 15, 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 13, 2016.

You testified that you were aware that you needed to provide income documentation to NYSOH, and that you even had a conversation with NYSOH regarding what documentation you could submit, as you are self-employed and had received an extension for filing your income tax return. You testified that you believed you faxed income information to NYSOH at the end of August 2016, but that you do not have any confirmation of this because you were in the process of moving to a new office at that time. You also testified that you were under a lot of stress at that time as both of your children had been hospitalized, and you had lost your lease on your office. You testified that it is possible that you only thought you sent the documentation, or that you sent it to the wrong place.

Although your testimony was credible, the fact remains that there is no evidence in your account to show that NYSOH ever received the required income documentation.

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 NYSOH did not receive any income documentation from you, and therefore could not confirm your eligibility for financial assistance.

Therefore, the September 18, 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, and your account confirms, that you updated your NYSOH application on November 14, 2016. That day you selected an Essential Plan for enrollment.

You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. You credibly testified that, on September 19, 2016, you officially changed your address, and that your mail began to be forwarded to your new address at that point. Though your testimony that you did not receive the September 18, 2016 notices was credible, there is no evidence in the record that any of the notices that were sent to your previous mailing address were returned as undeliverable. Therefore, it must be concluded that you were provided with timely notice that your eligibility for, and enrollment in, your Essential Plan coverage was ending, effective October 31, 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 you selected an Essential Plan on November 14, 2016, your enrollment would properly take effect on the first day of the month following November; that is, on December 1, 2016.

Therefore, the November 15, 2016 eligibility determination notice, and the November 15, 2016 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective December 1, 2016, are correct and must be AFFIRMED.

Decision

The September 18, 2016 notice of eligibility determination is AFFIRMED.

The November 15, 2016 notice of eligibility determination is AFFIRMED.

The November 15, 2016 notice of enrollment confirmation is AFFIRMED.

Effective Date of this Decision: March 02, 2017

How this Decision Affects Your Eligibility

NYSOH properly found you not eligible to enroll in the Essential Plan effective October 31, 2016 because NYSOH did not receive 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 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

Summary

The September 18, 2016 notice of eligibility determination is AFFIRMED.

The November 15, 2016 notice of eligibility determination is AFFIRMED.

The November 15, 2016 notice of enrollment confirmation is AFFIRMED.

NYSOH properly found you not eligible to enroll in the Essential Plan effective October 31, 2016 because NYSOH did not receive 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:

