



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

Notice of Decision

Decision Date: March 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013495

[REDACTED]

Dear [REDACTED],

On March 2, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 19, 2016 eligibility determination notice, the September 19, 2016 disenrollment notice, the November 11, 2016 eligibility determination notice and the November 11, 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

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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 reenrollment in the Essential Plan was effective December 1, 2016?

Procedural History

On February 5, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan, effective March 1, 2016.

Also on February 5, 2016, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective March 1, 2016.

On April 18, 2016 you updated your household's application for financial assistance with health insurance.

On April 19, 2016, NYSOH issued a notice of eligibility determination, based on the April 18, 2016 application, stating that you 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 income before July 17, 2016.

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Also on April 19, 2016, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective March 1, 2016.

On September 19, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to receive advance premium tax credits of up to \$121.00 and cost-sharing reductions if you selected a silver level qualified health plan, effective November 1, 2016. The notice stated that this was because federal and state data sources show your household income was between \$21,984.00 and \$63,720.00, which is the income range for the premium tax credit based on your household size. This notice further stated that your coverage in your Essential Plan would end on October 31, 2016 and that you qualified to select a health plan outside of the open enrollment period for 2016 and that you would need to confirm your plan selection no later than November 17, 2016.

Also on September 19, 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 current plan.

On November 10, 2016 you updated your application for financial assistance.

On November 11, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective December 1, 2016. The notice further directed you to provide documentation confirming your income before February 8, 2017.

Also on November 11, 2016, NYSOH issue a notice of enrollment confirmation, based on your plan selection on November 10, 2016, stating that you were enrolled in an Essential Plan effective December 1, 2016.

On November 23, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan for the month of November 2016.

On March 2, 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 account indicates, that you receive all of your notices from NYSOH via regular mail.

- 2) You testified that you were not sure if you received any notices stating that your eligibility was only conditional 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 met with a navigator at some point to update your account to include your son, however, you could not recall when this took place. You testified that you provided the navigator with your W-2 at that time.
- 5) The record reflects that on April 18, 2016, your NYSOH account was updated to indicate that your son was applying for health insurance through NYSOH in the same account that your coverage was under.
- 6) No income documentation has been uploaded to your account.
- 7) Your NYSOH account indicates that on September 18, 2016, your application was run and you were found no longer eligible for the Essential Plan as of October 31, 2016.
- 8) You testified that on [REDACTED] or [REDACTED] you went to a doctor's appointment and were advised by your doctor's office that your Essential Plan was going to end on October 31, 2016.
- 9) You testified, and the record reflects that on October 7, 2016, you contacted NYSOH to update your application for financial assistance. A review of the recording of that phone call reveals that you advised the NYSOH representative that your health insurance was going to end on October 31, 2016 and that you would like to renew your application. The NYSOH representative advised you that your coverage would continue until the end of the year, that you could not renew your application for coverage at that time, and that if you changed plans at that time, your coverage would not begin until January 1, 2017. The representative instructed you to contact NYSOH on or after November 16, 2016 to select a new plan.
- 10) You testified that you contacted NYSOH again in mid-November 2016 regarding your eligibility for and enrollment in the Essential Plan.
- 11) The record reflects that on November 10, 2016, you contacted NYSOH. Your application was updated and your eligibility was determined at that time. That same day, you selected an Essential Plan for reenrollment.

- 12) You testified that you are seeking enrollment in your Essential Plan for November 2016 as you have outstanding medical bills for 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 April 19, 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 July 17, 2016.

You testified that you were not sure if you received any notice from NYSOH telling you that you needed to provide income documentation to confirm your 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 eligibility for the Essential Plan terminated as of October 31, 2016 because, based on state and federal sources your household income was in the range for the premium tax credited based on your household size, and you did not submit documentation nor did you adequately demonstrate that you could not provide documentation to confirm your income.

Therefore, the September 19, 2016 eligibility determination notice and September 19, 2016 disenrollment notice are 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 contacted NYSOH on October 7, 2016 in order to update your NYSOH application. However, the NYSOH representative advised you that your coverage would continue until the end of 2016 and that you could not update your application at that time.

On November 10, 2016, you contacted NYSOH and updated your application for financial assistance with health insurance. You were again found eligible for the Essential Plan for a limited time. You selected an Essential Plan for enrollment at that time.

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.

As you were not permitted to update your application for financial assistance with health insurance on October 7, 2016, we must assume that you would have provided the same information that you provided at the time of your November 10, 2016 application, and would have been determined eligible for the Essential Plan for a limited time.

Had you been found eligible for the Essential Plan on October 7, 2016, you would have been able to select an Essential Plan for reenrollment that day. Therefore, your reenrollment in an Essential Plan would have taken effect on the first day of the first month following October 7, 2016; that is, on November 1, 2016.

Therefore, the November 11, 2016 eligibility determination notice and the November 11, 2016 enrollment confirmation notice are MODIFIED to reflect that your eligibility for and enrollment in the Essential Plan were effective November 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).

The case is RETURNED to NYSOH to reinstate your coverage in your Essential Plan as of November 1, 2016. You will be responsible for any premiums associated with this coverage.

Decision

The September 19, 2016 eligibility determination notice is AFFIRMED.

The September 19, 2016 enrollment confirmation notice is AFFIRMED.

The November 11, 2016 eligibility determination notice is MODIFIED to reflect that your eligibility for the Essential Plan is effective November 1, 2016.

The November 11, 2016 enrollment confirmation notice is MODIFIED to reflect that your enrollment in the Essential Plan is effective November 1, 2016.

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

Effective Date of this Decision: March 13, 2017

How this Decision Affects Your Eligibility

NYSOH properly found you not eligible to enroll in the Essential Plan effective October 31, 2016 because based on state and federal sources your household income was in the range for the premium tax credit and you did not provide documentation of your household's income.

Your case is being sent back to reenroll you in your Essential Plan as of November 1, 2016.

You will be responsible for any premiums associated with this coverage.

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

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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 eligibility determination notice is **AFFIRMED**.

The September 19, 2016 enrollment confirmation notice is **AFFIRMED**.

NYSOH properly found you not eligible to enroll in the Essential Plan effective October 31, 2016 because based on state and federal sources your household income was in the range for the premium tax credit and you did not provide documentation of your household's income.

The November 11, 2016 eligibility determination notice is **MODIFIED** to reflect that your eligibility for the Essential Plan is effective November 1, 2016.

The November 11, 2016 enrollment confirmation notice is **MODIFIED** to reflect that your enrollment in the Essential Plan is effective November 1, 2016.

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

Your case is being sent back to reenroll you in your Essential Plan as of November 1, 2016.

You will be responsible for any premiums associated with this coverage.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

