



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

Notice of Decision

Decision Date: March 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013512

[REDACTED]

Dear [REDACTED]

On February 23, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 18 eligibility determination, September 18, 2016 disenrollment notice, November 3, 2016 eligibility determination, and November 3, 2016 enrollment confirmation 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.

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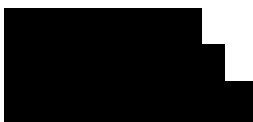


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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health properly determine that your eligibility for the Essential Plan ended effective October 31, 2016?

Did NY State of Health properly determine that your eligibility for and reenrollment in your Essential Plan was effective December 1, 2016?

Procedural History

On December 12, 2015, NY State of Health (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 10, 2016.

Also on December 12, 2015, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective January 1, 2016.

On September 18, 2016, NYSOH issued an eligibility redetermination 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.

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.

On November 2, 2016 you updated your application for financial assistance.

On November 3, 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 January 31, 2017.

Also on November 3, 2016, NYSOH issue a notice of enrollment confirmation, based on your plan selection on November 2, 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 February 23, 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 receive some notices from NYSOH via regular mail, however, you also receive electronic alerts notifying you of new notices in your NYSOH account.
- 2) Your NYSOH account indicates that you receive all of your notices from NYSOH by electronic mail.
- 3) You testified that you have never changed the preference of how you receive notices from NYSOH.
- 4) You testified that you believe you did receive the December 12, 2015 eligibility determination notice asking you to provide income documentation.
- 5) You testified that shortly after you updated your application for coverage in 2016 you mailed a copy of your 2014 tax return to NYSOH.
- 6) NYSOH has no record of receiving your 2014 tax return.

- 7) You testified that you did not follow-up with NYSOH regarding your submission of your 2014 tax return.
- 8) You testified that you learned that you had been disenrolled from your Essential Plan when you were in the hospital in November 2016.
- 9) 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.
- 10) You updated the income information in your NYSOH account on November 2, 2016.
- 11) You testified that you did not receive the September 18, 2016 eligibility determination or September 18, 2016 disenrollment notice via regular mail.
- 12) You testified that you were in the habit of ignoring the email alerts from NYSOH advising you that new notices had been uploaded to your NYSOH account.
- 13) You testified that you are seeking reinstatement of your Essential Plan for the month of November 2016.

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)).

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)).

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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 eligibility determination issued on December 12, 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 10, 2016.

The record reflects that NYSOH did not receive the requested income documentation before the deadline. Although you testified that you mailed your 2014 tax return, there is no indication in the record that this was ever received by NYSOH.

Your NYSOH account indicates you elected to receive alerts regarding notices from NYSOH electronically. You testified that you believe you did receive the December 12, 2015 eligibility determination notice advising you that income documentation was needed.

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 you did not submit documentation and did not adequately demonstrate that you could not provide documentation to confirm your income.

Therefore, the September 18, 2016 eligibility determination notice and September 18, 2016 disenrollment notice are **AFFIRMED**.

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

You testified that you did not receive the September 18, 2016 eligibility determination notice or the September 18, 2016 disenrollment notice via regular mail.

However, your account reflects that you have elected to receive email alerts from NYSOH.

You testified that you were in the habit of ignoring the email alerts from NYSOH advising you that new notices had been uploaded to your NYSOH account.

As you failed to review your NYSOH account for new notices after being sent electronic alerts from NYSOH advising you that a new notice had been uploaded to your NYSOH, there is no indication in the record that NYSOH failed to provide you with proper notice of the September 18, 2016 eligibility redetermination and September 18, 2016 disenrollment.

Your account indicates that you updated your NYSOH application on November 2, 2016. That day, you selected an Essential Plan 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 November 2, 2016, you selected an Essential Plan, your enrollment would properly take effect on the first day of the month following November 2, 2016; that is, on December 1, 2016.

Therefore, the November 3, 2016 eligibility determination notice, and the November 3, 2016 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective December 1, 2016, is correct and must be AFFIRMED.

Decision

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

The September 18, 2016 disenrollment notice is AFFIRMED.

The November 3, 2016 notice of eligibility determination is AFFIRMED.

The November 3, 2016 notice of enrollment is AFFIRMED.

Effective Date of this Decision: March 3, 2017

How this Decision Affects Your Eligibility

NYSOH properly found you 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 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:

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- By fax: 1-855-900-5557

Summary

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

The September 18, 2016 disenrollment notice is AFFIRMED.

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

The November 3, 2016 notice of eligibility determination is AFFIRMED.

The November 3, 2016 notice of enrollment is AFFIRMED.

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:

