



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: AP000000013591

[REDACTED]

Dear [REDACTED],

On February 28, 2017, you appeared by telephone, with the assistance of [REDACTED] interpreters, at a hearing on your appeal of NY State of Health's August 12, 2016 disenrollment and October 6, 2016 enrollment 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 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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Issues

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

Did NY State of Health (NYSOH) properly disenroll you from your Essential Plan effective August 31, 2016?

Did NYSOH properly re-enroll you in the Essential Plan with an enrollment start date of October 1, 2016?

Procedural History

On March 22, 2016, NYSOH issued a notice of eligibility determination stating, in relevant part, that you were eligible to enroll in the Essential Plan for a limited time, effective April 1, 2016.

On April 8, 2016, your NYSOH account was updated.

On April 9, 2016, NYSOH issued an eligibility determination notice stating, in relevant part, that you were eligible to enroll in the Essential Plan for a limited time, effective May 1, 2016. The notice directed you to provide additional documentation of your immigration status by July 7, 2016 to confirm your eligibility.

Also on April 9, 2016, NYSOH issued an enrollment notice confirming, in relevant part, that as of April 8, 2016 you were enrolled in an Essential Plan Plan with an enrollment start date of April 1, 2016.

On August 11, 2016, your NYSOH account was updated.

On August 12, 2016, NYSOH issued a notice stating that you were not qualified to enroll in health insurance coverage through NYSOH and your eligibility would end effective August 31, 2016. This was because you did not provide documentation of your immigration status to NYSOH.

Also on August 12, 2016, NYSOH issued a disenrollment notice stating that your enrollment in your Essential Plan would end effective August 31, 2016 because you were no longer eligible to enroll in health insurance through NYSOH.

On October 5, 2016, your NYSOH account was updated.

On October 6, 2016, NYSOH issued an enrollment notice confirming that, based on your plan selection on October 5, 2016, you were enrolled in an Essential Plan Plan with an enrollment start date of October 1, 2016.

On October 10, 2016, NYSOH issued an eligibility determination notice stating, in relevant part, that you were eligible to enroll in the Essential Plan for a limited time, effective October 1, 2016.

On October 11, 2016, you uploaded your United States Employment Authorization Card and Social Security card to your NYSOH account (see Document [REDACTED]).

On November 28, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal because you were not enrolled in the Essential Plan during the month of September 2016.

On February, 28, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit, with the assistance of Spanish interpreters (ID #s [REDACTED] and [REDACTED]). 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 and your testimony, you receive all of your notices from NYSOH via regular mail.
- 2) You testified that you did not receive any notices from NYSOH requesting that you submit additional documentation to prove your immigration status.

- 3) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 4) You testified that the mailing address listed in your NYSOH account is correct, and you have resided at that address since the end of 2015.
- 5) According to your NYSOH account and your testimony, you were disenrolled from the Essential Plan effective August 31, 2016.
- 6) You testified that you found out that your Essential Plan was discontinued when you were at a doctor's office in early October 2016.
- 7) According to your NYSOH account, you re-enrolled in the Essential Plan on October 5, 2016 with a plan enrollment start date of October 1, 2016.
- 8) You testified that you were hospitalized on or around [REDACTED] and [REDACTED].
- 9) You testified that you seeking to have the medical claims that were accrued from your hospitalization in September 2016 to be covered by the Essential Plan.

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

Applicable Law and Regulations

Essential Plan - Citizenship and Immigration Status

To enroll in the Essential Plan through NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in the United States (42 CFR § 600.305(a)(5)).

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)).

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in the Essential Plan. If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide

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satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5-day period (42 CFR § 600.345, 45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

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 issue under review is whether NYSOH properly determined that your eligibility for the Essential Plan ended effective August 31, 2016.

An individual requesting health insurance coverage through NYSOH is required to attest to their citizenship or immigration status. For individuals seeking enrollment in the Essential Plan, NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that their citizenship or immigration status is satisfactory and accurate.

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 9, 2016, you were advised that you were eligible for the Essential Plan for a limited time, and that you needed to confirm your immigration status with documentary proof before July 7, 2016.

You testified that you did not receive a notice from NYSOH requesting additional proof of your immigration status. The record indicates that the notices issued to the mailing address listed in your NYSOH account directed you to submit additional income documentation by July 7, 2016 and were not returned to NYSOH as undeliverable.

Therefore, it is determined that NYSOH properly notified you of the need to provide income documentation or risk losing the financial assistance you were currently receiving. Since no documentation was received by NYSOH within 90 days, you were properly disenrolled from your Essential Plan effective August 31, 2016.

Therefore, the August 12, 2016, disenrollment notice is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your re-enrollment in the Essential Plan was effective October 1, 2016.

The record reflects that you selected and were re-enrolled in an Essential Plan on October 5, 2016.

The date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

Ordinarily, 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 re-enrolled in the Essential Plan on October 5, 2016, your plan should have been effective on the first day of the following month following October 5, 2016; that is, on November 1, 2016. However, the October 5, 2016 enrollment notice stated that your enrollment start date in the Essential Plan was October 1, 2016, and will not be disturbed.

Further and according to your NYSOH account, you were granted Aid to Continue in your Essential Plan during the appeal process and were put back into your Essential Plan as of September 1, 2016,

Decision

The August 12, 2016 disenrollment notice is AFFIRMED.

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The October 5, 2016 enrollment notice will not be disturbed.

Effective Date of this Decision: March 10, 2017

How this Decision Affects Your Eligibility

NYSOH properly ended your Essential Plan effective August 31, 2016.

Although the October 5, 2016 enrollment notice states that you were re-enrolled in the Essential Plan, effective October 1, 2016, your NYSOH account reflects that you were granted Aid to Continue in your Essential Plan during the appeal process and were re-enrolled into that plan as of September 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

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- By mail at:
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Summary

The August 12, 2016 disenrollment notice is AFFIRMED.

The October 5, 2016 enrollment notice will not be disturbed.

NYSOH properly ended your Essential Plan effective August 31, 2016.

Although the October 5, 2016 enrollment notice states that you were re-enrolled in the Essential Plan, effective October 1, 2016, your NYSOH account reflects that you were granted Aid to Continue in your Essential Plan during the appeal process and were re-enrolled into that plan as of September 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:

