



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

Notice of Decision

Decision Date: March 9, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013660

[REDACTED]

Dear [REDACTED],

On March 2, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 2016 eligibility redetermination 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: March 9, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013660

[REDACTED]

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 your eligibility for the Essential Plan ended effective October 31, 2016?

Procedural History

On December 16, 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 14, 2016.

Also on December 16, 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 for advance payment of the premium tax credit (APTC) in an amount of up to \$22.00 per month, effective November 1, 2016. The notice further stated your new eligibility was based on information received from federal and state data sources that showed your household income was between \$16,243.00 and \$47,080.00, and you qualified for a special enrollment period to select a health plan.

Also on September 18, 2016, NYSOH issued a disenrollment notice stating that your 2016 coverage in your Essential Plan would end as of October 31, 2016, because you were no longer eligible to remain in your current plan.

On November 30, 2016, you updated your application for financial assistance. That day, a preliminary eligibility redetermination was prepared finding you eligible to enroll in the Essential Plan. You selected a health plan that day with a start date of January 1, 2017.

Also on November 30, 2016, you spoke to NYSOH's Account Review Unit and appealed being disenrolled and without coverage in your Essential Plan for the months of November 2016 and December 2016.

On December 1, 2016, NYSOH issued an eligibility redetermination notice, based on your November 30, 2016 application, stating that you were conditionally eligible to enroll in the Essential Plan, effective January 1, 2017.

Also on December 1, 2016, NYSOH issue an enrollment confirmation notice, based on your plan selection on November 30, 2016, stating that you were enrolled in an Essential Plan effective January 1, 2017.

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) According to your NYSOH account and your testimony, at all times relevant, you received all of your notices from NYSOH by electronic mail.
- 2) You testified that you did not receive any electronic alerts notifying you of any notices in your NYSOH account stating that you were redetermined eligible for APTC based on federal and state data sources or that you were about to be terminated from your Essential Plan as of October 31, 2016.
- 3) You testified that you did not know that you were terminated from your Essential Plan until you attempted to purchase a very expensive prescription drug from your pharmacist and were advised you had no coverage.

- 4) Your NYSOH account indicates that, on September 17, 2016, your application was rerun and you were found no longer eligible for the Essential Plan as of October 31, 2016.
- 5) You submitted income documentation to NYSOH on November 30, 2016.
- 6) You testified that you are seeking reinstatement of your Essential Plan for the months of November 2016 and December 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)).

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 16, 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 14, 2016.

The record reflects that NYSOH did not receive the requested income documentation before the deadline.

However, you testified that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the September 18, 2016 eligibility redetermination and disenrollment notices, which advised you that you were found newly eligible for APTC and were about to be terminated from your Essential Plan, effective October 31, 2016. 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 were about to be terminated from your health coverage and 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 redetermination and disenrollment notices, stating that you are no longer eligible for the Essential Plan because you failed to submit documentation 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 notice of eligibility determination is **RESCINDED**.

The September 18, 2016 notice of disenrollment 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 9, 2017

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).

How this Decision Affects Your Eligibility

NYSOH erred in terminating your Essential Plan effective October 31, 2016 without giving you proper notice.

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 been achieved.

If applicable, you will be responsible to pay the monthly premiums to the health plan for November 2016 and December 2016 in order for your coverage to resume those two months. You can contact your health plan directly to arrange payment(s).

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

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).

- 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 notice of eligibility determination is RESCINDED.

The September 18, 2016 notice of disenrollment 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 erred in terminating your Essential Plan effective October 31, 2016 without giving you proper notice.

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 been achieved.

If applicable, you will be responsible to pay the monthly premiums to the health plan for November 2016 and December 2016 in order for your coverage to resume those two months. You can contact your health plan directly to arrange payment(s).

Legal Authority

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

A Copy of this Decision Has Been Provided To:

