



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

Notice of Decision

Decision Date: March 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014591

[REDACTED]

Dear [REDACTED],

On March 7, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 12, 2016 eligibility determination notice, the January 5, 2017 eligibility determination notice, and the January 5, 2017 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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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 December 31, 2016?

Did NYSOH properly determine that your enrollment in the Essential Plan was effective February 1, 2017?

Procedural History

On December 9, 2015 NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan, effective January 1, 2016.

Also on December 9, 2015 NYSOH issued a notice confirming your enrollment in an Essential Plan, effective January 1, 2016.

On September 6, 2016 the income information in your NYSOH account was updated.

On September 7, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective October 1, 2016. The notice further directed you to provide documentation confirming your income before December 5, 2016.

On December 12, 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 January 1, 2017.

Also on December 12, 2016, NYSOH issued a disenrollment notice stating that your enrollment in the Essential Plan would end as of December 31, 2016, because you were no longer eligible to remain in your plan.

On January 4, 2017, 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 January 4, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your Essential Plan for the month of January 2017.

On January 5, 2017, NYSOH issued a notice of eligibility determination, based on your January 4, 2017 application, stating that you were eligible to enroll in the Essential Plan, effective February 1, 2017.

Also on January 5, 2017, NYSOH issue a notice of enrollment confirmation, based on your plan selection on January 4, 2017, stating that you were enrolled in an Essential Plan effective February 1, 2017.

On March 7, 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 via regular mail.
- 2) You testified that you received the notice dated September 7, 2016 stating that your eligibility was only conditional and that you needed to provide documentation of your household's income by December 5, 2016.
- 3) You testified that you mailed household income documents to NYSOH sometime in November or December 2016 through the United States Postal Service via regular mail but you had no receipt of this mailing.

- 4) You testified that you had not heard anything back from NYSOH after mailing the income documents, so you assumed NYSOH had received your income documents and the documentation was found to be valid.
- 5) You testified that you did not contact NYSOH customer service, or logged on to your NYSOH account to see if they had received your income documents before December 5, 2016.
- 6) Your NYSOH account indicates that no income documents were uploaded to your account before December 5, 2016.
- 7) Your NYSOH account indicates that on December 12, 2016, your application was run and you were found no longer eligible for the Essential Plan as of December 31, 2016 because you did not submit the requested income documents.
- 8) No notices that were sent to the address listed on your NYSOH account have been returned undeliverable.
- 9) You updated the income information in your NYSOH account on January 4, 2017 and were approved for the Essential Plan with an effective date of February 1, 2017. Your account also indicates that you enrolled in a plan on January 4, 2017.
- 10) You testified that you are seeking enrollment in your Essential Plan as of January 1, 2017.

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).

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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)).

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

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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 first issue under review is whether NYSOH properly determined that your eligibility for the Essential Plan ended effective December 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 September 7, 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 December 5, 2016.

You testified that you received the notice dated September 7, 2016 from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. You testified that you had mailed the income documents to NYSOH sometime in November or December 2016 through the United States Postal Service via regular mail and assumed that if NYSOH needed anything else they would contact you. You further testified that you do not have a receipt of this mailing. You also testified that you never contacted NYSOH customer service, or logged onto your NYSOH account to check if they received the income documents before December 5, 2016.

There is no evidence in the record that income documents were ever received by NYSOH and you were unable to provide a mailing receipt to confirm your testimony that the documents were mailed prior to December 5, 2016. Therefore, you did not properly submit income documentation to verify the income that was attested to in your NYSOH account before the deadline.

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 December 31, 2016 because no income documentation was received by NYSOH and you did not adequately prove that you had mailed the income documents before December 5, 2016. You also did not adequately demonstrate that you could not provide documentation to confirm your income.

Therefore, the December 12, 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 February 1, 2017.

You testified, and your account confirms, that you updated your NYSOH application on January 4, 2017. 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 January 4, 2017, you selected an Essential Plan, your enrollment would properly take effect on the first day of the following month after January; that is, on February 1, 2017.

Therefore, the January 5, 2017 eligibility determination notice, and the January 5, 2017 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective February 1, 2017, is correct and must be AFFIRMED.

Decision

The December 12, 2016 notice of eligibility determination is AFFIRMED.

The January 5, 2017 notice of eligibility determination is AFFIRMED.

The January 5, 2017 notice of enrollment is AFFIRMED.

Effective Date of this Decision: March 10, 2017

How this Decision Affects Your Eligibility

NYSOH properly found you not eligible to enroll in the Essential Plan effective December 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 February 1, 2017.

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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Summary

The December 12, 2016 notice of eligibility determination is AFFIRMED.

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

The January 5, 2017 notice of eligibility determination is AFFIRMED.

The January 5, 2017 notice of enrollment is AFFIRMED.

NYSOH properly found that your reenrollment in the Essential Plan was effective February 1, 2017.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

