



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

Notice of Decision

Decision Date: May 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014636

[REDACTED]

Dear [REDACTED]

On April 14, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 6, 2017 eligibility determination 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 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: May 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014636

[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 you were no longer eligible to remain enrolled in your Essential Plan due to having Medicare, effective January 1, 2017?

Procedural History

On February 4, 2016, NYSOH issued a plan enrollment notice confirming your enrollment in Essential Plan 1 Plus Vision and Dental with a \$46.45 monthly premium with a plan enrollment start date of March 1, 2016.

On September 18, 2016, NYSOH issued an eligibility redetermination notice, based on a September 17, 2016 system update, stating that you were eligible for the Essential Plan effective November 1, 2016.

Also on September 18, 2016, NYSOH issued an enrollment notice confirming your enrollment in Essential Plan 1 Plus Vision and Dental effective March 1, 2016.

On October 15, 2016, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2016 or you might lose the financial assistance you were currently receiving.

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On December 15, 2016, you updated your application for financial assistance with health insurance through NYSOH.

On December 16, 2016, NYSOH issued an eligibility redetermination notice stating that you were not eligible for Medicaid, Child Health Plus, the Essential Plan or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You also could not enroll in a qualified health plan at full cost. This was because you were receiving Medicare Public MEC (Minimum Essential Coverage).

Also on December 16, 2016, NYSOH issued a disenrollment notice stating that your Essential Plan 1 Plus Vision and Dental would end on December 31, 2016 because you were no longer eligible to enroll in health insurance through NYSOH.

On January 5, 2017, NYSOH received another update to your application for health insurance. That day, a preliminary eligibility determination was prepared finding you not eligible purchase health care coverage through NYSOH.

Also on January 5, 2017, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to the system showing you were receiving Medicare.

On January 6, 2017, NYSOH issued an eligibility redetermination notice stating that you were not eligible for Medicaid, Child Health Plus, the Essential Plan or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You also could not enroll in a qualified health plan at full cost. This was because you were receiving Medicare Public MEC (Minimum Essential Coverage).

On January 14, 2017, NYSOH issued an eligibility redetermination notice based on updated information received on January 13, 2017. That notice stated you were eligible for the Essential Plan with a \$20.00 monthly premium for a limited time. The notice stated you had been granted Aid-To-Continue until a decision can be made on your appeal. This eligibility was effective January 1, 2017. You were then enrolled in your Essential Plan 1 Plus Vision and Dental with a plan enrollment start date of January 1, 2017.

On April 14, 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 are seeking an appeal with respect to your own eligibility only.
- 2) According to your NYSOH account, you are currently [REDACTED].
- 3) According to your NYSOH account and your testimony, you were determined eligible for the Essential Plan, effective January 1, 2016, and were enrolled in Essential Plan 1 with Vision and Dental with a plan enrollment start date of March 1, 2016.
- 4) According to your NYSOH account, the system re-ran your eligibility on September 17, 2016 and you were determined eligible for the Essential Plan effective November 1, 2016. An enrollment notice was issued on September 18, 2016 confirming you were enrolled in the Essential Plan effective March 1, 2016.
- 5) According to your NYSOH account, the September 17, 2016 application that was based on state and federal data sources did not reflect that you had been enrolled in Medicare.
- 6) According to your NYSOH account, on December 15, 2016 you updated your application for financial assistance. At that time, state and federal data sources indicated that you were receiving Medicare Public MEC.
- 7) According to your NYSOH account, your Essential Plan coverage was terminated effective December 31, 2016 due to state and federal sources detecting that you had currently been enrolled in Medicare.
- 8) You testified that in the 1990's you had a serious injury and were on Medicare. You further testified that you returned to work several years ago and that you have not been enrolled in any kind of public coverage since then.
- 9) Per your NYSOH account, the Medicare coverage was removed from your eMedNY account on January 13, 2017.
- 10) According to your NYSOH account, you were granted Aid-To-Continue effective January 1, 2017 pending the outcome of this appeal.
- 11) According to your NYSOH account, your household income listed on the January 13, 2017 application is \$44,192.00, consisting of your earning income of \$40,200 less \$6,700.00 in deductions and your spouse's

expected combined yearly income from earnings and Title II benefits of \$10,692.00.

12) According to your NYSOH account, you reside in Nassau County, NY.

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

Applicable Law and Regulations

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).

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 you were no longer eligible to remain enrolled in your Essential Plan due to having Medicare, effective January 1, 2017.

The record reflects that you were found eligible for the Essential Plan effective January 1, 2016. You enrolled in Essential Plan 1 with Vision and Dental with a plan enrollment start date of March 1, 2016.

The record reflects that system re-ran your eligibility on September 17, 2016 and you were again determined eligible for the Essential Plan. An enrollment notice was issued stating that you had been enrolled in Essential Plan 1 with Vision and Dental since March 1, 2016.

On December 15, 2016, in response to a notice that it was time to renew your health insurance, you updated your application for financial assistance. The corresponding eligibility determination notice issued on December 16, 2016 stated you were not eligible for health insurance through NYSOH because you were receiving Medicare Public MEC. As a result, on December 16, 2016, NYSOH also issued a disenrollment notice stating that your Essential Plan 1 with Vision and Dental would end on December 31, 2016, because you were no longer eligible to enroll in health insurance through NYSOH.

On January 5, 2017, you updated your account and a preliminary eligibility determination was prepared finding you not eligible to purchase health insurance through NYSOH. On that date, you spoke to the Account Review Unit and stated that you no longer received Medicare and wanted your eligibility redetermined.

Generally, when NYSOH determines that a person has active coverage in a health insurance plan outside of NYSOH, such as Medicare Public MEC, that person is not eligible to enroll or remain enrolled in a qualified health plan.

However, you credibly testified that you were injured in a serious accident in the 1990s but have since returned to work and you have not been on Medicare for several years. The record reflects that the Medicare coverage that was showing on your eMedNY account was removed on January 13, 2017.

Therefore, when NYSOH cancelled your coverage in your Essential Plan, effective January 1, 2017, due to state and federal data sources showing you were enrolled in Medicare was based on incorrect information that has since been removed.

Therefore, the December 16, 2016 and January 6, 2017 eligibility redetermination notices are **RESCINDED**

Accordingly, the December 16, 2016 disenrollment notice terminating your coverage under your Essential Plan 1 Plus Vision and Dental, effective December 31, 2016 is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance through NYSOH prospectively, using a two-person household with an annual household income of \$44,192.00, for an individual residing in Nassau County and to notify you of its redetermination accordingly.

You have been granted aid-to-continue in your Essential Plan as of January 1, 2017, which coverage will continue until the directive is completed and your enrollment in an appropriate plan can be confirmed.

Decision

The December 16, 2016 and January 6, 2017 eligibility redetermination notices are RESCINDED.

The December 16, 2016 disenrollment notice terminating your coverage under your Essential Plan 1 Plus Vision and Dental, effective December 31, 2016, is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance through NYSOH prospectively, using a two-person household with an annual household income of \$44,192.00, for an individual residing in Nassau County and to notify you accordingly.

You have been granted aid-to-continue in your Essential Plan as of January 1, 2017, which coverage will continue until the above directive is completed and your enrollment in an appropriate plan can be confirmed.

Effective Date of this Decision: May 30, 2017

How this Decision Affects Your Eligibility

NYSOH improperly determined you to be ineligible for financial assistance through NYSOH on the basis that you had Medicare Public MEC when, in fact, you did not.

Your case is being sent back to NYSOH to redetermine your eligibility for financial assistance based on the household size and income noted above. NYSOH will notify you once this has been completed and, if applicable, will assist

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you in enrolling in an appropriate health plan prospectively. In the meantime, your aid-to-continue in your Essential Plan will not be disturbed.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace 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 Federal Marketplace. 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 have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The December 16, 2016 and January 6, 2017 eligibility redetermination notices are RESCINDED.

The December 16, 2016 disenrollment notice terminating your coverage under your Essential Plan 1 Plus Vision and Dental, effective December 31, 2016, is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance through NYSOH prospectively, using a two-person household with an annual household income of \$44,192.00, for an individual residing in Nassau County and to notify you accordingly.

You have been granted aid-to-continue in your Essential Plan as of January 1, 2017, which coverage will continue until the above directive is completed and your enrollment in an appropriate plan can be confirmed.

NYSOH improperly determined you to be ineligible for financial assistance through NYSOH on the basis that you had Medicare Public MEC when, in fact, you did not.

Your case is being sent back to NYSOH to redetermine your eligibility for financial assistance based on the household size and income noted above. NYSOH will notify you once this has been completed and, if applicable, will assist you in enrolling in an appropriate health plan prospectively. In the meantime, your aid-to-continue in your Essential Plan will not be disturbed.

Legal Authority

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

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您免费提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

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এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. y&btumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

שׂוּדִישׁ (Yiddish)

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דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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