



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

Notice of Decision

Decision Date: February 14, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015617

[REDACTED]

Dear [REDACTED],

On February 14, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 8, 2017 eligibility determination notice and the February 8, 2017 enrollment 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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Decision

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015617



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 and your spouse's eligibility for and enrollment in the Essential Plan was effective March 1, 2017?

Procedural History

On January 4, 2016, NYSOH received your and your spouse's application for financial assistance with health insurance.

On January 5, 2016, NYSOH issued an eligibility determination notice, based on the January 4, 2016 application, stating that you and your spouse were eligible to enroll in the Essential Plan, effective February 1, 2016.

Also on January 5, 2016, NYSOH issued an enrollment confirmation notice, confirming your and your spouse's selection of an Essential Plan, with an enrollment start date of February 1, 2016.

On December 3, 2016, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that you and your spouse could not be enrolled in your current plan for next year and that you must select a different health plan between December 16, 2016 and January 15, 2017 to continue your coverage.

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On December 17, 2016, NYSOH issued a disenrollment notice stating that your and your spouse's enrollment in your Essential Plan would end January 31, 2017 because you were no longer eligible to enroll.

No plan selections were made prior to January 15, 2017.

On February 7, 2017, NYSOH received your and your spouse's updated application for health insurance. That day, a preliminary eligibility determination was prepared stating that you and your spouse were eligible for the Essential Plan, effective March 1, 2017.

Also on February 7, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of the Essential Plan, insofar as you and your spouse did not have coverage for the month of February 2017.

On February 8, 2017, NYSOH issued a notice of eligibility determination, based on the February 7, 2017 application, stating that you and your spouse were eligible to enroll in the Essential Plan, effective March 1, 2017.

Also on February 8, 2017, NYSOH issued an enrollment notice confirming the selection of your and your spouse's Essential Plan, with a plan enrollment start date of March 1, 2017.

On February 10, 2017, you submitted a request for an expedited hearing. That day, you also uploaded supporting documentation from your and your spouse's physician to your NYSOH account.

Also on February 10, 2017, your request was reviewed and you were approved for an expedited hearing.

On February 14, 2017, you had an expedited 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 and your spouse were determined eligible for the Essential Plan on January 5, 2016, with an effective date of February 1, 2016.
- 2) You testified, and your account confirms, that you receive your notices from NYSOH by electronic alert.

- 3) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to select a new plan before January 15, 2017 or you and your spouse would lose health coverage. You also did not receive any renewal notice by regular mail.
- 4) You testified that you did not know that you needed to update your account until you were unable to fill a prescription on February 7, 2017.
- 5) The record reflects that on February 7, 2017 NYSOH received your and your spouse's updated application for health insurance.
- 6) You and your spouse reenrolled into an Essential Plan on February 7, 2017.
- 7) You testified that you are seeking to have coverage in the Essential Plan for you and your spouse effective February 1, 2017.

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

Applicable Law and Regulations

Essential Plan Renewal

In general, NYSOH will review Essential Plan eligibility no more frequently than once every 12 months from the effective date of eligibility as long as enrollees are under age 65, not enrolled in minimum essential coverage elsewhere, remain state residents, and do not have any changes in circumstances. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12-month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or changes in circumstances (42 CFR § 600.340(a); 42 CFR § 600.320(d); NY Social Services Law § 369-gg(3) and (4)(d)); New York's Basic Health Plan Blueprint, pp. 8 and 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (42 CFR § 600.340(e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (42 CFR §600.345; (NY Social Services Law § 369-gg(4)(c); 45 CFR § 155.335(g); New York's Basic

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Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

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)).

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 you and your spouse's eligibility for and enrollment in the Essential Plan was effective March 1, 2017.

You and your spouse were originally found eligible for the Essential Plan effective February 1, 2016.

Generally, NYSOH will redetermine a qualified individual's eligibility for the Essential Plan once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency.

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NYSOH's December 3, 2016 renewal notice stated that you and your spouse could not be enrolled in your current plan for next year and that you must select a different health plan between December 16, 2016 and January 15, 2017 to continue your coverage.

Because there was no timely response to this notice, you and your spouse were terminated from your Essential Plan effective January 31, 2017

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive any electronic alert regarding the notice that directed you to select a new health plan for you and your spouse. There is no evidence in your account showing that any email alert was sent to you regarding the need to renew your application, that any such electronic notice failed, or that the notice was later sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the required notice that you needed to update your account.

You first renewed your and your spouse's eligibility for financial assistance through NYSOH for the upcoming coverage year on February 7, 2017, and therefore we must assume that the information you provided at that time is the information that would have been used had you been timely informed of the need to select a new health plan, as stated in the renewal notice.

Had the information been submitted at that time, your and your spouse's eligibility for and enrollment in the Essential Plan would have begun on February 1, 2017.

Therefore, the February 8, 2017 notice of eligibility and February 8, 2017 notice of enrollment is MODIFIED to state that your eligibility for and enrollment in the Essential Plan was effective February 1, 2017.

Decision

The February 8, 2017 notice of eligibility is MODIFIED to state that your and your spouse's eligibility for the Essential Plan was effective February 1, 2017.

The February 8, 2017 notice of enrollment is MODIFIED to state that your and your spouse's enrollment in the Essential Plan was effective February 1, 2017.

Your case is RETURNED to NYSOH to reenroll you and your spouse in your Essential Plan, effective February 1, 2017.

Effective Date of this Decision: February 14, 2017

How this Decision Affects Your Eligibility

Your and your spouse's eligibility for and enrollment in the Essential Plan should have been effective as of February 1, 2017.

Your case is being sent back to NYSOH to reenroll you and your spouse in your Essential Plan as of 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
- By mail at:

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- By fax: 1-855-900-5557

Summary

The February 8, 2017 notice of eligibility is MODIFIED to state that your and your spouse's eligibility for the Essential Plan was effective February 1, 2017.

The February 8, 2017 notice of enrollment is MODIFIED to state that your and your spouse's enrollment in the Essential Plan was effective February 1, 2017.

Your and your spouse's eligibility for and enrollment in the Essential Plan should have been effective as of February 1, 2017.

Your case is RETURNED to NYSOH to reenroll you and your spouse in your Essential Plan, 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:

