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

Notice of Decision

Decision Date: November 13, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000020248

[redacted]

On September 25, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's failure to issue you a timely and adequate notice of your eligibility for financial assistance.

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
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: November 13, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000020248

[redacted]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

> Did NYSOH provide you with a timely and adequate notice of the discontinuance of your Essential Plan coverage?

Procedural History

On May 3, 2016, NYSOH issued a notice stating that, based on federal and state data sources, you were qualified to enroll in the Essential Plan with a $20.00 monthly premium, effective July 1, 2016.

On June 16, 2016, NYSOH issued a plan enrollment notice confirming that you were enrolled in an Essential Plan, through Fidelis Care, with an enrollment notice start date of July 1, 2016.

On June 30, 2016, NYSOH issued a disenrollment notice stating that you requested to end your insurance coverage, through Fidelis Care, and your coverage would end effective July 31, 2016.

Also on June 30, 2016, NYSOH issued a plan enrollment notice confirming that as of June 29, 2016, you enrolled in an Essential Plan, through Independent Health, with a plan enrollment start date of August 1, 2016.

On May 4, 2017, 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 for the next year. Further, the notice instructed you to update your account between May 16, 2017, and June 15, 2017, to see what you qualify for on July 1, 2017 (*see* Document [redacted]).

On May 24, 2017, you updated your account.

On May 25, 2017, NYSOH issued an eligibility determination notice stating that you remained eligible for Medicaid, effective as of May 1, 2017.

On June 4, 2017, NYSOH issued a plan enrollment notice confirming that as of June 3, 2017, you were enrolled in a MMC plan with an enrollment start date of July 1, 2017.

On July 5, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal relative to your health insurance coverage for the month of June 2017.

On September 25, 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, you were determined eligible to for and enrolled in an Essential Plan, with an effective date of July 1, 2016.

2) According to your NYSOH account, you enrolled in the following dental plans:

    (a) DeltaCare USA Basic Plan from August 1, 2016 through December 31, 2016;
    (b) DeltaCare PPO Basic Plan from January 1, 2017 through January 1, 2017;
    (c) Blue Value Dental from January 1, 2017 through May 31, 2017.

3) According to your May 24, 2017 application, you attested to filing a 2017 federal income tax return with the tax status of single and did not expect to claim any dependents on that tax return.

4) According to your May 24, 2017 application, you attested to an annual household income of $14,124.00.

5) You testified that you were not submitting a new application for Medicaid, but were responding to the request to renew for the upcoming period beginning July 1, 2017.

6) According to your NYSOH account, your Essential Plan ended on May 31, 2017.

7) According to your NYSOH account and testimony, NYSOH never issued a notice stating that your Essential Plan would end May 31, 2017.

8) You testified that you were informed by a NYSOH representative that your Essential Plan would end June 30, 2017.

9) You testified that you incurred approximately $2,400.00 in dental expenses during the month of June 2017 because your coverage was cancelled as of May 31, 2017.

10) You further testified that you would have waited until July 2017 to receive dental care had you known you were without adequate health coverage in June 2017

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

Applicable Law and Regulations

De Novo Review

NYSOH Appeals Unit must review each appeal de novo and "consider all relevant facts and evidence adduced during the appeals process" (45 CFR § 155.535(f)). "De novo review means a review of an appeal without deference to prior decisions in the case" (45 CFR § 155.500).

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).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2016 FPL, which is $11,880.00 for a one-person household (81 Federal Register 4036).

A person who has a household income that is above 150% of the FPL has a $20.00 premium contribution and has higher cost-sharing (New York's Basic Health Plan Blueprint, pgs. 23-24, as approved January 2016; see https://www.medicaid.gov/basic-health-program/basic-health-program.html).

Redetermination During a Benefit Year

NYSOH requires that enrollees report any change with respect to their eligibility within 30 days of such change (42 CFR § 600.340(a), 45 CFR § 155.330(b)). NYSOH must implement changes resulting from a redetermination effective the first day of the month following the issuance of the notice of eligibility redetermination (45 CFR § 155.330(f)(1)(i), New York's Basic Health Plan Blueprint, p. 18, as approved January 2016; see https://www.medicaid.gov/basic-health-program/basic-health-program.html).

Essential Plan - Timely and Adequate Notices:

NYSOH must provide timely written notice to an applicant of any eligibility determination that is made. When NYSOH verifies updated information reported by the enrollee, NYSOH must notify the enrollee regarding the redetermination (45 CFR §§ 155.310(g), 155.330(e)(ii)).

Any notice required to be sent by NYSOH to individuals must be written and include an explanation of the action reflected, including the effective date of the action (45 CFR § 155.230(a)(1)).

Legal Analysis

The issue under review is whether NYSOH properly ended your Essential Plan coverage as of May 31, 2017.

The record does not contain an eligibility determination notice stating regarding your eligibility for the Essential Plan for the month of June 2017. Here, the lack of a notice of eligibility determination on the issue does not prevent the Appeals Unit from reaching the merits of the case or constitute material error. Under 45 CFR § 155.505(b), you are as entitled to appeal NYSOH failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of

eligibility determination. You testified that you want your Essential Plan coverage reinstated for the month of June 2017. Your testimony, coupled with the notices issued by NYSOH, is sufficient to deduce that NYSOH ended your Essential Plan coverage as of May 31, 2017.

Since the Appeals Unit review of NYSOH determinations is performed on a de novo basis, no deference would have been granted to the eligibility determination notice had it been issued.

You were determined eligible for and enroll in an Essential Plan as of July 1, 2016. On May 4, 2017, NYSOH issued you a notice directing you to renew your health insurance coverage between May 16, 2017, and June 15, 2017, for the upcoming year [redacted].

The record reflects that on May 24, 2017, you updated the information in your NYSOH account to reflect a decrease in your annual household income. Based on that update, on May 25, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid effective as of May 1, 2017 (*see* [redacted]

An enrollee must report any change to NYSOH that may affect their eligibility. Generally, when individuals change the information in their account, any change resulting from that update will be effective the first day of the month after NYSOH is notified of the change.

The record reflects that on May 24, 2017, you updated your account, which resulted in a change of your eligibility from Essential Plan to Medicaid. The following day, NYSOH issued a corresponding notice stating that you were eligible for Medicaid as of May 1, 2017. Since your account was updated on May 24, 2017, the redetermination of your financial assistance should have been the first day of the following month; that is June 1, 2017.

Notwithstanding this general rule and that the record supports that you were renewing your eligibility for the upcoming year and not submitting a new application for Medicaid, NYSOH must give applicants and enrollees timely and adequate written notice of any eligibility determination or redetermination that is made. By providing proper notice, individuals can take appropriate action to allow coverage to continue without interruption or to avoid incurring unnecessary medical or dental expenses.

You testified that you were informed by a NYSOH representative that your Essential Plan would end June 30, 2017. Further, that you did not receive any notice stating that your Essential Plan coverage would end as of May 31, 2017.

The record reflects that the May 25, 2017 eligibility determination notice did not mention your eligibility for the Essential Plan, and NYSOH did not issued a notice regarding the discontinuance of your Essential Plan coverage.

It is concluded that NYSOH did not provide you with timely and adequate notice that your Essential Plan coverage ended as of May 31, 2017. Therefore, your case is RETURNED to NYSOH to reinstate your Essential Plan (medical and dental plans) for the month of June 2017, and to notify you accordingly.

Decision

NYSOH failed to provide you with timely notice of the discontinuance of your Essential Plan coverage.

Your case is RETURNED to NYSOH to reinstate your Essential Plan (medical and dental plans) for the month of June 2017, and to notify you accordingly.

Effective Date of this Decision: November 13, 2017

How this Decision Affects Your Eligibility

Your case has been sent back to NYSOH to reinstate your Essential Plan coverage for the month of June 2017. NYSOH will notify you once this has been done.

You will be responsible for any relevant premiums to effectuate this coverage.

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
- By mail at:

  NY State of Health Appeals
  P.O. Box 11729
  Albany, NY 12211

- By fax: 1-855-900-5557

Summary

NYSOH failed to provide you with timely notice of the discontinuance of your Essential Plan coverage.

Your case is RETURNED to NYSOH to reinstate your Essential Plan (medical and dental plans) for the month of June 2017, and to notify you accordingly.

Your case has been sent back to NYSOH to reinstate your Essential Plan coverage for the month of June 2017. NYSOH will notify you once this has been done.

You will be responsible for any relevant premiums to effectuate this coverage.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[redacted]

Getting Help in a Language Other than English

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).

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 مجانًا.

বাংলা (Bengali)

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।

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).

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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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.

אידיש (Yiddish)

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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