



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

Notice of Decision

Decision Date: March 29, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025883

[REDACTED]

Dear [REDACTED],

On February 22, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 12, 2017 eligibility determination and plan enrollment 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025883

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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 spouse was disenrolled from her Essential Plan, effective November 30, 2017?

Did NYSOH properly determine that your spouse was next enrolled into an Essential Plan, effective January 1, 2018?

Procedural History

According to your NYSOH account, your spouse was determined eligible to enroll in the Essential Plan from January 1, 2017 through December 31, 2017.

On October 24, 2017, NYSOH issued a renewal notice stating that, based on information from federal and state sources, NYSOH could not make a decision about whether your household qualified for financial assistance in the upcoming coverage year. The notice instructed you to update the information in your NYSOH by December 15, 2017, so an appropriate decision could be made and, if you missed the deadline, your household would be at risk of losing coverage.

You updated your NYSOH application on December 11, 2017, to add your newborn child.

As of your December 11, 2017 application, your spouse was preliminarily determined eligible to enroll in the Essential Plan, effective January 1, 2018.

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On December 12, 2017, NYSOH issued four notices regarding your spouse's eligibility and enrollment as follows:

- 1) An eligibility determination notice stating that your request for help paying for medical bills for the three-month period prior to the December 11, 2017 application for your spouse had been reviewed and denied for the period of October 1, 2017 through November 30, 2017, because the program she was eligible for could not pay for any care she received in the past.
- 2) A disenrollment notice indicating that your spouse's dental coverage would end January 1, 2018, based on your December 11, 2017 request to end her coverage in that plan.
- 3) An eligibility determination notice stating in part that your spouse was eligible for the Essential Plan, effective January 1, 2018.
- 4) A plan enrollment notice stating in part that your spouse was enrolled in an Essential Plan 1, effective January 1, 2018.

On December 15, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as your spouse was not enrolled in her Essential Plan until January 1, 2018.

On February 22, 2018, 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 your spouse's enrollment in her Fidelis Essential Plan 1 was terminated because you paid the premium late. You testified that you think your spouse was without health insurance coverage in November 2017 and December 2017.
- 2) You testified that you are seeking health insurance coverage for your spouse for the months of November 2017 and December 2017.
- 3) According to the Enrollment History Tab in your NYSOH account, the system terminated your spouse's enrollment from her Essential Plan as of November 30, 2017.

- 4) According to the Enrollment Tab in your NYSOH account, your spouse's coverage was terminated on December 14, 2017, as of November 30, 2017
- 5) You testified that you did not know if you received notice of your spouse's disenrollment.
- 6) There is no disenrollment notice in your NYSOH account to this effect.
- 7) You testified that you called mid-December 2017, to add your newborn child to your account and, when you learned your spouse was without coverage, to get her re-enrolled, but the re-enrollment start date was for January 1, 2018, and your request to have her coverage backdated was denied.
- 8) You testified that your spouse probably did not have any medical bills for December 2017, but she wants to be covered.
- 9) You re-enrolled your spouse into an Essential Plan on December 11, 2017, to be effective on January 1, 2018.

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

Applicable Law and Regulations

Appealable Issues

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505, and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d))

Essential Plan Renewal

New York State has elected to adopt the Medicaid policy regarding continuous enrollment throughout the year (42 CFR § 600.320(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>).

This means that an individual may apply and enroll for coverage at any point in time throughout the year, including outside the open enrollment period and

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without needing a special enrollment period (NY Social Services Law § 369-gg(4)(d)).

New York State has also elected to redetermine Essential Plan enrollees every 12 months from the effective date of eligibility as long as enrollees are under age 65, are not enrolled in minimum essential coverage, and remain state residents. 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(f); NY Social Services Law § 369-gg(3) and (4)(d)). Enrollees are required to report changes in circumstances within 30 days, which NYSOH will assess and act upon accordingly (New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

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 first issue under review is whether NYSOH properly determined that your spouse was disenrolled from her Essential Plan 1, effective November 30, 2017.

According to your NYSOH account, your spouse was determined eligible to enroll in the Essential Plan as of January 1, 2017, which under the continuous coverage policy would continue until December 31, 2017, barring any disqualifying events, such as failing to timely pay the monthly premium. You

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testified that your spouse was disenrolled from her Essential Plan 1 as of October 31, 2017, because you made a premium payment late. However, your NYSOH account reflects that she was disenrolled from her health plan as of November 30, 2017, on that basis.

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination, and (5) a denial of a request for a special enrollment period.

Your appeal was requested to dispute your spouse being disenrolled from her Essential Plan 1 as of November 30, 2017, because of late payment. This issue relates to coverage and payment of premiums, which are not issues that the Appeals Unit of NYSOH is authorized to address. Therefore, we must DISMISS your appeal as it relates to the November 30, 2017 disenrollment date.

However, it is not clear from the record if NYSOH provided proper notice of your spouse's disenrollment from her Essential Plan and whether such disenrollment occurred as of October 31, 2017, or November 30, 2017. To verify proper notice was given and to confirm the disenrollment date of your spouse's Essential Plan, your case is RETURNED to NYSOH's Plan Management Unit to further investigate both issues and to notify you accordingly.

The second issue under review is whether NYSOH properly determined that your spouse was next enrolled into an Essential Plan, effective January 1, 2018.

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. 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.

The record reflects that you selected an Essential Plan for your spouse on December 11, 2017, with an effective enrollment start date of January 1, 2018.

Since your spouse's Essential Plan was selected on December 11, 2017, which is before the sixteenth of the month, her enrollment in that plan properly began the first day of the next month following December 2017; that is, as of January 1, 2018.

Therefore, the December 12, 2017 plan enrollment notice was correct and is AFFIRMED.

Decision

Your appeal of your spouse's disenrollment from her Essential Plan 1 as of November 30, 2017 is DISMISSED as a nonappealable issue.

Your case is RETURNED to NYSOH's Plan Management Unit to further investigate if proper notice of disenrollment was given and the date on which disenrollment occurred. You will be notified accordingly.

The December 12, 2017 plan enrollment notice is AFFIRMED.

Effective Date of this Decision: March 29, 2018

How this Decision Affects Your Eligibility

NYSOH will notify you whether proper notice was given regarding your spouse's disenrollment from her Essential Plan 1 and the disenrollment date of your spouse's coverage in 2017.

Your spouse's enrollment in her Essential Plan 1 next began as of January 1, 2018.

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 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).

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

Your appeal of your spouse's disenrollment from her Essential Plan 1 as of November 30, 2017 is **DISMISSED** as a nonappealable issue.

Your case is **RETURNED** to NYSOH's Plan Management Unit to further investigate if proper notice of disenrollment was given and the date on which disenrollment occurred. You will be notified accordingly.

The December 12, 2017 plan enrollment notice is **AFFIRMED**.

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).

NYSOH will notify you whether proper notice was given regarding your spouse's disenrollment from her Essential Plan 1 and the disenrollment date of your spouse's coverage in 2017.

Your spouse's enrollment in her Essential Plan 1 next began as of January 1, 2018.

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.

繁體中文 (Traditional Chinese)

這是一份重要的文件。如果您需要幫助理解此文件，請打電話至 1-855-355-5777。我們可以為您免費提供相應語種的口譯服務。

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)

이것은 중요한 문서입니다. 이 문서를 이해하는 데 도움이 필요하다면, 1-855-355-5777로 전화하십시오. 저희가 무료로 해당 언어의 통역 서비스를 제공합니다.

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)

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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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