



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

## Notice of Decision

Decision Date: April 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005730

[REDACTED]

Dear [REDACTED]

On March 9, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 24, 2015 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 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.

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

Decision Date: April 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005730

[REDACTED]

## Issue

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

Did the Marketplace properly determine that your enrollment in the Essential Plan was effective February 1, 2016?

## Procedural History

On October 24, 2015, the Marketplace issued a renewal notice stating it was time to renew your NY State of Health Coverage. A decision could not be made about your eligibility to receive financial assistance based upon information from state and federal data sources. You were directed to update the information in your NY State of Health account by December 15, 2015 so a decision could be made. If you missed this deadline, the financial assistance you were getting could end.

On December 20, 2015, the Marketplace redetermined your eligibility and found you newly eligible to purchase a qualified health plan at full cost effective January 1, 2016.

On December 23, 2015, the Marketplace received your updated application for financial assistance.

On December 24, 2015, the Marketplace issued a notice of eligibility determination, based on your December 23, 2015 application, stating that you were eligible to enroll in the Essential Plan, effective February 1, 2016. This eligibility was based upon the condition that you return documents confirming your income by March 22, 2016.

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Also on December 24, 2015, the Marketplace issued a notice of enrollment, based on your plan selection on December 23, 2015, stating that you were enrolled in an Essential Plan for a cost of \$20.00 per month, and your plan would start February 1, 2016.

On December 23, 2015, you spoke to the Marketplace's Account Review Unit and appealed the start date of your enrollment in the Essential Plan insofar, and requested that your coverage begin January 1, 2016.

On March 9, 2016, you had a telephone hearing with a Hearing Officer from the Marketplace'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 support the following findings of fact:

- 1) You submitted an application to the Marketplace for financial assistance on December 23, 2015.
- 2) You testified, and the record reflects, that you enrolled in an Essential Plan on December 23, 2015.
- 3) You testified that you wanted your Essential Plan to begin on January 1, 2016 because you experienced a gap in coverage of one month due to being disenrolled retro-actively from your full pay Qualified Health plan.
- 4) The record reflects that there was no activity in your account by you prior to the requested deadline of December 15, 2015.
- 5) The record reflects that you chose to receive your notices via electronic notice.
- 6) You testified that you did not receive a renewal notice asking you to update the information in your account by December 15, 2015.

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

## **Applicable Law and Regulations**

### Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that the Marketplace uses in determining effective dates for individuals seeking enrollment in qualified health plans (N.Y. 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 generally determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, the Marketplace must generally ensure that coverage is effective the first day of the following month for selections received by the Marketplace from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); 42 CFR § 600.320). For selections received by the Marketplace from the sixteenth to the last day of any month, the Marketplace must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

### Annual Eligibility Redetermination

Generally, when the Marketplace conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, the Marketplace is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 Code of Federal Regulations (CFR) § 155.335(a), (b)).

The Marketplace must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, the Marketplace must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).

### Electronic Notices

Applicants may choose to receive notices and information from the Marketplace by either electronic or regular mail. If the applicant elects to receive electronic

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notices, the Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d)).

## **Legal Analysis**

The issue is whether the Marketplace properly determined that your enrollment in the Essential Plan was effective February 1, 2016.

On October 24, 2015, the Marketplace issued a renewal notice stating it was time to renew your NY State of Health Coverage. A decision could not be made about your eligibility to receive financial assistance based upon information from state and federal data sources. You were asked to please update the information in your NY state of Health account by December 15, 2015 so a decision could be made. If you missed this deadline, the financial assistance you were getting could end.

The record reflects that there was no activity in your account by you prior to the requested deadline of December 15, 2015.

You testified that you contacted the Marketplace on December 23, 2015, and enrolled into an Essential Plan.

The date on which an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected between the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

On December 23, 2015, you selected an Essential Plan, so it properly took effect on the first day of the second month following December; that is, on February 1, 2016.

However, you testified and the record reflects that you elected to receive alerts regarding notices from the Marketplace electronically. You credibly testified that you did not receive an electronic alert regarding the renewal notice issued on October 24, 2015, which directed you to update the information in your Marketplace account. There is no evidence in your account documenting that any email alert was sent to you regarding the need to renew your application, as required.

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

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It will be assumed that had you received the proper notice, you would have submitted the same information at the appropriate time that you eventually submitted on December 23, 2015. If that information had been submitted prior to December 15, 2015, you would have been found eligible for the Essential Plan effective January 1, 2016.

Therefore, the December 24, 2015 eligibility determination notice is MODIFIED to reflect that your coverage under the Essential Plan is effective January 1, 2016.

## **Decision**

The December 24, 2015, enrollment confirmation notice is MODIFIED.

**Effective Date of this Decision:** April 12, 2016

## **How this Decision Affects Your Eligibility**

This decision does not change your eligibility.

The effective date of your Essential Health Plan is January 1, 2016.

## **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 after the date 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 date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

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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 December 24, 2015, enrollment confirmation notice is MODIFIED.

This decision does not change your eligibility.

The effective date of your Essential Health Plan is January 1, 2016.

### **Legal Authority**

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



**A Copy of this Decision Has Been Provided To:**

