



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

## Notice of Decision

Decision Date: June 10, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005898



Dear [REDACTED],

On April 8, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's May 4, 2015 disenrollment 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: AP000000005898



## Issue

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

Was your appeal of NY State of Health's May 4, 2015 disenrollment notice timely?

## Procedural History

You and your spouse were enrolled in Medicaid through NYSOH effective February 1, 2014, and enrolled in a Medicaid Managed Care plan effective March 1, 2014.

On December 17, 2014, NYSOH issued a notice stating it was time to renew your coverage for the upcoming year. The notice further stated that you could not be re-enrolled in your current plan, and that you needed to update your account between December 16, 2014 and January 15, 2016 in order for your new plan to become effective February 1, 2015. You were prospectively eligible to enroll in a qualified health plan and to receive advance payments of the premium tax credit (APTC) of up to \$582.00 per month and eligible to receive cost-sharing reductions.

On January 5, 2015, you updated your account.

On January 6, 2015, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive APTC of up to \$582.00 per month

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and eligible to receive cost-sharing reductions. This eligibility was effective February 1, 2015.

Also on January 6, 2015, an enrollment confirmation notice was issued stating that you and your spouse were enrolled in a qualified health plan with a \$185.08 premium. Your enrollment in your qualified health plan could begin as early as February 1, 2015 if you paid your first month's premium.

On April 30, 2015, your NYSOH account was updated to reflect a lower household income, and an application was submitted on your behalf.

On May 1, 2015, a letter was issued stating that based on the April 30, 2015 application, NYSOH was unable to make an eligibility determination because the income information you provided does not match state and federal data sources. You were directed to provide proof of your income by May 18, 2015.

On May 4, 2015, a disenrollment notice was issued stating that your and your spouse's enrollment in your qualified health plan would end effective May 31, 2015.

On May 21, 2015, copies of paystubs were uploaded to your online account, and your account was updated again.

On May 22, 2015, NYSOH issued a notice that based on the April 30, 2015 application, NYSOH was unable to make an eligibility determination because the income information you provided does not match state and federal data sources. You were directed to provide proof of your income by June 6, 2015.

On May 28, 2015, an eligibility determination notice was issued stating that you and your spouse were eligible to receive APTC of up to \$570.00 per month and eligible to receive cost-sharing reductions. This eligibility was effective July 1, 2015.

On December 31, 2015, you contacted the Accounts Review Unit of NY State of Health to request an appeal of your and your spouse's disenrollment from your qualified health plan as of May 31, 2015.

On January 1, 2016, an eligibility determination notice was issued stating that you and your spouse were eligible to enroll in the Essential Plan, effective February 1, 2016.

Also on January 1, 2016, an enrollment confirmation notice was issued stating that you and your spouse were enrolled in an Essential Plan with a \$20.00 per month premium, effective February 1, 2016.

On April 8, 2016, you had a telephone hearing with a Hearing Officer from the Appeals Unit of NY State of Health. During the hearing, you and your spouse both offered testimony. The record was developed 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 looking to be reinstated into your qualified health plan as of June 1, 2016.
- 2) You testified that you never received the notice stating that your and your spouse's enrollment in your qualified health plan was ending May 31, 2015.
- 3) You testified that you were not aware of the disenrollment until you went to the doctor's on December 31, 2015.
- 4) The record indicates that prior to being disenrolled, you were responsible for a \$185.08 premium.
- 5) You testified that you paid your premium in the beginning but your application counselor asked you if you wanted to stop paying a premium. You further testified that from this point forward you assumed that you were still enrolled but did not have to pay a premium.
- 6) The record indicates that on April 30, 2015, your application counselor updated the income information in your account. As a result, you and your spouse were put in pending Medicaid status.
- 7) You testified that you have problems with receiving your mail because your mail carrier is inconsistent.

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

## **Applicable Law and Regulations**

### Valid Appeal Requests

An applicant has the right to appeal to the Appeals Unit of NYSOH: (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

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eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) a determination of eligibility for a special enrollment period; (3) a failure by the Exchange to provide a timely notice of an eligibility determination (45 CFR §§ 155.505, 155.420).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

### Timely Notice of Eligibility Determination

When an individual applies for insurance through NY State of Health, the NY State of Health must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NY State of Health must base the time period from the date of application to the date the NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

## **Legal Analysis**

The issue under review is whether your appeal of NYSOH's May 4, 2015 disenrollment notice was timely.

On January 6, 2015 an enrollment confirmation notice was issued stating that you and your spouse were enrolled in a qualified health plan with a \$185.08 per month premium. You testified that you paid your premium in the beginning for your qualified health plan but your application counselor asked you if you wanted to stop paying a premium. You further testified that from this point forward you assumed that you were still enrolled but you no longer had to pay a premium.

The record indicates that on April 30, 2015 your application counselor updated the income information in your account and you and your spouse were put in pending Medicaid status. As a result of this change, on May 4, 2015, a disenrollment notice was issued stating that your and your spouse's enrollment in your qualified health plan would end effective May 31, 2015. Your eligibility was redetermined on May 28, 2015 for APTC of up to \$570.00 per month and cost-sharing reductions however, you did not reselect a qualified health plan for enrollment.

The record reflects that the first time you contacted NY State of Health to file a formal complaint or appeal about your disenrollment from your qualified health plan was December 31, 2015. Individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH. According to the credible evidence in the record, you did not contact NYSOH until December 31, 2015 to file a formal complaint or appeal which is well beyond 60 days from the date of the May 4, 2015 disenrollment notice.

Therefore, there has been no valid timely appeal of the May 4, 2015 disenrollment notice, and your appeal of that notice is **DISMISSED**.

During the hearing, you testified that you never received the May 4, 2015 disenrollment notice in the mail.

However, there is no indication in the record that NYSOH failed to properly notify you of your disenrollment and there are no notices that were mailed to your mailing address returned to NY State of Health as undeliverable. You also testified that you have problems with receiving your mail because your mail carrier is inconsistent.

Furthermore, you testified that you were told that you no longer had to pay a premium by your application counselor but the record indicates that at no point did NYSOH issue a determination stating that your premium was \$0.00. Therefore, any argument that you did not receive a timely notice of your eligibility because of the failure by NY State of Health to issue one is not supported by the record.

## **Decision**

Your appeal of the May 4, 2015 disenrollment notice is **DISMISSED**.

**Effective Date of this Decision:** June 10, 2016

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

This decision does not affect your current Essential Plan enrollment effective February 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 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:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

Your appeal of the May 4, 2015 disenrollment notice is **DISMISSED**.

This decision does not affect your current Essential Plan enrollment effective February 1, 2016.

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## **Legal Authority**

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

