



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

### Notice of Decision

Decision Date: May 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006036

[REDACTED]

Dear [REDACTED],

On May 9, 2016 you and your attorney appeared by telephone at a hearing on your appeal of NY State of Health's January 7, 2016 enrollment confirmation 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: May 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006036



## Issue

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

Did NY State of Health properly determine that your enrollment in the Essential Plan, was effective February 1, 2016?

## Procedural History

On October 23, 2015, NY State of Health (NYSOH) issued a notice that it was time to renew your health insurance for 2016. That notice stated that you now qualify for health care coverage under the Essential Plan, effective January 1, 2016. The notice further stated that you needed to select a different health plan between November 16, 2015 and December 15, 2015 to continue your coverage.

No plan selections were made in your account before December 15, 2015.

On December 17, 2015 a disenrollment notice was issued stating that your coverage in your qualified health plan would end effective December 31, 2015.

On January 6, 2016, NYSOH received your updated application for health insurance. That day, you enrolled in an Essential Plan that was set to begin as of February 1, 2016.

Also on January 6, 2016 you spoke to NYSOH's Account Review Unit and appealed the start date of your Essential Plan insofar as it did not begin as of January 1, 2016.

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On January 7, 2016, NYSOH issued an enrollment confirmation notice based on your plan selection on January 6, 2016, stating that your enrollment in the Essential Plan would start February 1, 2016.

On May 9, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, [REDACTED] acted as your attorney. 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 testified, and the record reflects, that you receive all of your notices from NYSOH via electronic mail.
- 2) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account for the month of October telling you that you needed to select a health plan to remain enrolled in coverage.
- 3) You testified that the only electronic alert you received was on December 17, 2015. The record indicates that alert would have been associated with the December 17, 2015 disenrollment notice.
- 4) You testified that you did not know that you needed to update your account until the beginning of January when you had two appointments and a pharmacist told you that you were not on a plan.
- 5) The record reflects that on January 6, 2016, NYSOH received your updated application for health insurance.
- 6) You testified that you are seeking your Essential Plan to begin as of January 1, 2016.

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

## **Applicable Law and Regulations**

### Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions,

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Medicaid, or Child Health Plus. In such cases, NYSOH 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 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH 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)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or 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 (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

### 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 issue under review is whether NYSOH properly determined that your enrollment in the Essential Plan, was effective February 1, 2016.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual's eligibility and instructions of what actions an individual needs to take in order to remain enrolled.

On October 23, 2015, NYSOH issued an annual renewal notice in your case. That notice stated that you now qualify for health care coverage under the Essential Plan, effective January 1, 2016. The notice further stated that you needed to select a different health plan between November 16, 2015 and December 15, 2015 to continue your coverage.

Because you did not select a new health plan prior to December 15, 2015, you were disenrolled from coverage as of December 31, 2015.

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 alerts regarding any notice in your NYSOH account for the month of October telling you that you needed to select a health plan to remain enrolled in coverage. There is no evidence in your account documenting that any email alert was sent to you regarding the need to renew your application.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to select a new health plan for coverage effective January 1, 2016.

You first enrolled in an Essential Plan through NYSOH for 2016 on January 6, 2016, and therefore we must assume that the plan you selected that day would have been selected before December 15, 2015 had you been timely informed of the need to select a plan, as stated in the renewal notice.

Therefore, the January 7, 2016 notice of enrollment confirmation is MODIFIED to state that your enrollment in the Essential Plan is effective January 1, 2016.

## **Decision**

The January 7, 2016 notice of enrollment confirmation is MODIFIED to state that your enrollment in the Essential Plan is effective January 1, 2016.

Your case is RETURNED to NYSOH to effectuate the change listed above.

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

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

Your eligibility for and enrollment in the Essential Plan, is effective as of January 1, 2016.

Your case is being sent back to NYSOH to effectuate this change.

## **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

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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The January 7, 2016 notice of enrollment confirmation is MODIFIED to state that your enrollment in the Essential Plan is effective January 1, 2016.

Your eligibility for and enrollment in the Essential Plan, is effective as of January 1, 2016.

Your case is being sent back to NYSOH to effectuate this change.

## **Legal Authority**

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



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

[REDACTED]

[REDACTED]