



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

## Notice of Decision

Decision Date: July 1, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006313

[REDACTED]

Dear [REDACTED]

On May 11, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 24, 2015 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 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: July 1, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006313

[REDACTED]

## 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 an Essential Plan was effective February 1, 2016?

## Procedural History

On October 24, 2015, NY State of Health (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, and that you needed to update your account by December 15, 2015 or you might lose the financial assistance you were currently receiving.

No updates were made to your account by December 15, 2015.

On December 21, 2015, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were found newly eligible to purchase a qualified health plan at full cost. This eligibility determination was effective as of January 1, 2016.

On December 23, 2015, NYSOH received a revised application.

On December 24, 2015, NYSOH issued a notice of eligibility redetermination based on the information contained in your December 23, 2015 application. The

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notice stated that you were eligible to enroll in the Essential Plan, effective February 1, 2016.

Also on December 24, 2015, NYSOH issued a notice of enrollment confirming your enrollment in an Essential Plan with Fidelis Care, with such coverage beginning February 1, 2016.

On January 19, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the December 24, 2015 enrollment confirmation notice insofar as you were seeking to begin your Essential Plan coverage effective January 1, 2016.

On April 6, 2016, NYSOH issued a disenrollment notice stating that your Essential Plan coverage with Fidelis Care was terminated effective March 31, 2016 due to non-payment of premium amounts.

On April 11, 2016, NYSOH received a revised application.

On April 12, 2016, NYSOH issued a notice of eligibility redetermination based on the information contained in your April 11, 2016 application. The notice stated that you were newly eligible to receive an advance premium tax credit (APTC) of up to \$233.00 per month and, if you selected a silver-level plan, newly eligible for cost-sharing reductions (CSR). This eligibility determination was effective as of May 1, 2016.

While you enrolled in a Fidelis Care qualified health plan with such coverage slated to take effect on April 1, 2016, your coverage under this plan was subsequently cancelled, as reflected in a notice issued by NYSOH on April 19, 2016, as of April 1, 2016, because of a failure to pay premiums.

On May 11, 2016, 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 submitted an application to NYSOH for financial assistance on December 23, 2015.
- 2) You testified, and the record reflects, that you selected an Essential Plan on December 23, 2015. Your coverage under this plan began February 1, 2016.

- 3) You testified that you wanted your enrollment in an Essential Plan to begin on January 1, 2016 because you incurred approximately \$900.00 in medical expenses during the month of January 2016.
- 4) You testified that you received the October 25, 2015 notice requesting that you update your account by December 15, 2015. You further testified that you attempted multiple times to call NYSOH to update your account, but were either placed on hold for hours or experienced a busy signal.
- 5) You testified that your spouse passed away on [REDACTED]
- 6) You testified that contrary to your revised application submitted on April 11, 2016, you live with your daughter, [REDACTED] who is a full-time student. You further testified that you while you now anticipated filing as single, you will be claiming your daughter as a dependent on your 2016 tax return.
- 7) You testified that your anticipated income for 2016 now consists of approximately \$12,000.00 from [REDACTED], and \$400.00 once every two weeks from [REDACTED].
- 8) You testified that your daughter is currently employed at two part-time positions. You further testified that she earned \$300.00 once every two weeks from [REDACTED], and \$95.00 per week from [REDACTED].
- 9) You live in Westchester County, New York.
- 10) You testified that since your Essential Plan coverage has terminated as of March 31, 2016, you were seeking to be redetermined for more tax credits to enroll in a more affordable plan through NYSOH going forward.

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 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>).

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

You testified, and the record indicates, that you updated your NYSOH application on December 23, 2015. As a result, you were found eligible for the Essential Plan as of December 23, 2015 and enrolled into a plan that day.

You testified that you attempted to contact NYSOH multiple times between October 25, 2015 and December 15, 2015 in order to update your account as requested by NYSOH. However, since the record contains no evidence of your having attempted to contact NYSOH during that time, we cannot make an inference in your favor.

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

A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to 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 your enrollment properly took effect on the first day of the second month following December 2015; that is, on February 1, 2016.

Therefore, the December 24, 2015 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective February 1, 2016, is correct and must be AFFIRMED.

You further testified that you were seeking to enroll in a plan going forward since your QHP coverage with Fidelis Care was terminated as of April 1, 2016 due to non-payment of premiums.

You testified that you live with your daughter who is a full-time student.

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You testified that you anticipated filing your 2016 taxes as single and claiming your daughter as your sole dependent on that return.

You testified that your anticipated income for 2016 will now be \$22,400.00, which consists of \$12,000.00 from [REDACTED], and \$10,400.00 (\$400.00 x 26 weeks) from [REDACTED]. You further testified that your daughter's anticipated income for 2016 will now be \$12,740.00, which consists of \$7,800.00 (\$300 x 26 weeks) from [REDACTED], and \$4,940.00.

Accordingly, your case is RETURNED to NYSOH to determine your eligibility based on a two-person household in Westchester County, with an annual household income of \$35,140.00.

## **Decision**

The December 24, 2015 enrollment notice is AFFIRMED.

Your case is RETURNED to NYSOH to determine your eligibility based on a two-person household in Westchester County, with an annual household income of \$35,140.00.

**Effective Date of this Decision:** July 1, 2016

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

This decision does not change your eligibility.

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

You will receive a new determination based on a two-person household in Westchester County, with an annual household income of \$35,140.00.

## **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.

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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**

The December 24, 2015 enrollment notice is AFFIRMED.

This decision does not change your eligibility.

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

You will receive a new determination based on a two-person household in Westchester County, with an annual household income of \$35,140.00.

### **Legal Authority**

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

