



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

Notice of Decision

Decision Date: November 7, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008014

[REDACTED]

Dear [REDACTED]

On September 22, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's February 20, 2016 notice of enrollment confirmation.

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: AP000000008014

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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 you were cancelled from your Essential Plan effective January 31, 2016?

Did NYSOH properly determine that your enrollment in an Essential Plan was effective April 1, 2016?

Procedural History

On December 16, 2015, NYSOH issued a notice of eligibility determination, based on your December 15, 2015 application, stating that you were eligible to enroll in the Essential Plan, effective January 1, 2016.

Also on December 16, 2015, NYSOH issued a notice of enrollment, based on your plan selection on December 15, 2015, stating that you were enrolled in an Essential Plan, and that your plan would start January 1, 2016.

Effective January 31, 2016 you were disenrolled from this Essential Plan.

On February 19, 2016 you contacted NYSOH. On February 20, 2016 NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan effective April 1, 2016.

Also on February 20, 2016 NYSOH issued a notice of enrollment, based on your plan selection on February 19, 2016, stating that you were enrolled in an Essential Plan, and that your plan would start April 1, 2016.

On March 17, 2016 you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential Plan insofar as it did not begin February 1, 2016.

On September 19, 2016 a Hearing Officer from NYSOH's Appeals Unit contacted you regarding your scheduled hearing. You advised that you were not able to go forward with the hearing at that time, and the hearing was adjourned to September 22, 2016 per your request.

On September 22, 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 renewed your application to NYSOH for financial assistance on December 15, 2015.
- 2) You testified, and the record reflects, that you enrolled in an Essential Plan on January 1, 2016.
- 3) You testified that you paid your January 2016 premium.
- 4) You testified that although you attempted to set-up auto pay, you did not pay a premium for February 2016.
- 5) You testified that you received notice from your Essential Plan that your coverage had been cancelled as of February 1, 2016 as your premium had not been paid.
- 6) You testified that you have gone through an internal appeal process with your Essential Plan and your coverage has been made effective retroactively.
- 7) You testified that after the resolution with your Essential Plan, there were no months that you were without coverage.
- 8) You testified that you have outstanding bills that your current plan is refusing to pay.

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- 9) You initially appealed the start date of your Essential Plan. However, you testified that your issue now pertains to outstanding bills.

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: (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 to vacate dismissal made by the NY State of Health Appeals Unit (45 CFR § 155.505).

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 is whether NYSOH properly determined that you were cancelled from your Essential Plan effective January 31, 2016.

The record indicates that you were enrolled in your Essential Plan effective January 1, 2016. You testified that you attempted to enroll in auto pay, however,

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you did not make your February 2016 premium payment, which resulted in cancellation of your Essential Plan.

The New York State of Health Appeals Unit only has the authority to review issues related to the following: (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 to vacate dismissal made by the New York State of Health Appeals Unit.

As the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether or not you were properly terminated from your health plan for non-payment of premiums.

The second issue is whether NYSOH properly determined that your reenrollment in the Essential Plan was effective April 1, 2016.

You testified, and the record indicates, that you updated your NYSOH application on February 19, 2016. As a result, you were found eligible for the Essential Plan as of April 1, 2016 and enrolled into a plan that day.

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 February 19, 2016, you selected an Essential Plan, so your enrollment properly took effect on the first day of the second month following February; that is, on April 1, 2016.

Therefore, the February 20, 2016 notice of enrollment confirmation stating that your enrollment in the Essential Plan was effective April 1, 2016, is correct and must be AFFIRMED.

You testified that your internal appeal through your Essential Plan resulted in your Essential Plan becoming effective on February 1, 2016, so that you have no gap in coverage. You also testified that you are having trouble getting bills covered as your April 2016 Essential Plan was back dated rather than your January 2016 Essential Plan being reinstated.

The NYSOH Appeals Unit is not given authority to review internal appeals within the health plans. As such, the NYSOH Appeals Unit cannot make any amendments to the determination issued via the internal appeals process of your Essential Plan. The NYSOH Appeals Unit is also not given the authority to review issues regarding outstanding bills.

However, Emblem Health Essential Plan may be able to help you with your outstanding bill issue. If you have not already been assisted with your current billing issue, please contact Emblem Health Essential Plan directly at 1-888-447-7703.

In addition, since your issue concerns a health insurer and/or payment, reimbursement, coverage, benefits, rates and/or premiums, you can contact NY Department of Financial Services at their Consumer Hotline at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30 PM); or locally to (212) 480-6400; or you can file a complaint at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>

Decision

The February 20, 2016 notice of enrollment confirmation is AFFIRMED.

Effective Date of this Decision: November 7, 2016

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

The effective date of your Essential Health Plan is April 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

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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:
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The February 20, 2016 notice of enrollment confirmation is **AFFIRMED**.

This decision does not change your eligibility.

The effective date of your Essential Health Plan is April 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:

