



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

## Notice of Decision

Decision Date: October 14, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008058

[REDACTED]

Dear [REDACTED],

On September 9, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 20, 2016 eligibility determination notice and January 20, 2016 notice of enrollment.

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.

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## Decision

Decision Date: October 14, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008058



## 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 the enrollment of you and your spouse in an Essential Plan was effective March 1, 2016, rather than February 1, 2016?

Can NYSOH Appeals Unit consider your appeal regarding the enrollment of you and your spouse in an Essential Plan with dental and vision coverage, at an additional premium cost, effective March 1, 2016, insofar as you are seeking reimbursement of premiums paid during the month of March 2016 since you contend that such enrollment in the dental and vision elements of that plan was erroneous?

## Procedural History

On November 22, 2015, NYSOH issued an eligibility determination notice stating that you and your spouse were no longer eligible for Medicaid; however, you and your spouse would continue to receive Medicaid coverage until January 31, 2016. The notice also advised you to revise your application between December 17, 2015 and January 16, 2016 so that NYSOH can make an appropriate decision on your eligibility beginning February 1, 2016.

Also on November 22, 2015, NYSOH issued a notice of enrollment confirming your selection of New York State Catholic Health Plan, Inc. (Fidelis Care) as you and your spouse's Medicaid Managed Care (MMC) plan as of November 19, 2015, with such coverage beginning as of July 1, 2015.

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On December 23, 2015, NYSOH issued a notice that it was time to renew health insurance for you and your spouse 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 and your spouse would qualify for financial help paying for your health coverage, and that you needed to update your account by January 15, 2016 or you and your spouse might lose the financial assistance currently being received.

No updates were made to your account by January 15, 2016.

On January 17, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You and your spouse also could not enroll in a qualified health plan (QHP) at full cost. This was because you had not responded to the renewal notice and had not completed the renewal for you and your spouse within the required timeframe. Eligibility for you and your spouse would end January 31, 2016.

Also on January 17, 2016, NYSOH issued a disenrollment notice confirming that MMC plan coverage for you and your spouse would end effective January 31, 2016.

On January 19, 2016, NYSOH received your updated application for health insurance.

On January 20, 2016, NYSOH issued a notice of eligibility redetermination notice stating that you and your spouse were each eligible to enroll in the Essential Plan at monthly premium of \$0.00. This eligibility determination was effective March 1, 2016.

Also on January 20, 2016, NYSOH issued a notice of enrollment confirming your selection of Unitedhealthcare Community (UHC) as you and your spouse's Essential Plan as of January 19, 2016. This plan selection also included both dental and vision coverage at an additional premium of \$30.38 per person. The notice stated that the Essential Plan coverage for you and your spouse would begin effective March 1, 2016.

On March 1, 2016, NYSOH issued a disenrollment notice confirming request of your request to terminate the Essential Plan with dental and vision coverage on February 29, 2016. The notice stated that your coverage would end effective March 31, 2016.

On March 15, 2016, NYSOH issued a notice of enrollment confirming your selection of an Essential Plan without any dental or vision coverage as of March 14, 2016. The notice stated that the Essential Plan coverage for you and your spouse would begin effective April 1, 2016.

On March 18, 2016, you contacted NYSOH's Account Review Unit and appealed the January 20, 2016 eligibility determination insofar as coverage under the Essential Plan for you and your spouse began as of March 1, 2016, rather than February 1, 2016. You also were seeking a review of the March 1, 2016 disenrollment notice insofar as you and your spouse were enrolled in an Essential Plan with UHC providing both dental and vision coverage at an additional premium. You were seeking a return of the premium amounts as you contended that you had not requested enrollment in this optional dental and vision coverage.

On September 9, 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 support the following findings of fact:

- 1) You testified, and the record reflects, that you receive all of your notices from NYSOH by electronic mail. You further testified that you requested that all e-mail communication issued by NYSOH be sent to your e-mail address, [REDACTED]
- 2) You testified that you continually receive electronic alerts from NYSOH to your e-mail address, including one telling you that you needed to update your application in order to renew your eligibility. However, you further testified that you did not see the notification requesting that you renew your application prior to January 15, 2016 since you were vacationing in Florida, and did not have access to a computer at that time.
- 3) You testified that once you realized you had been disenrolled, you contacted NYSOH on or about January 19, 2016 to update your account.
- 4) You testified that since you were unaware that you had to you update your account prior to January 15, 2016, you were disenrolled from your MMC plan as of January 31, 2016. You further testified that you attended a doctor's appointment during the month of February 2016, and that you incurred out-of-pocket expenses as a result.

- 5) You testified that you were seeking to have the Essential Plan for you and your spouse begin as of February 1, 2016, rather than March 1, 2016.
- 6) You testified, and the record reflects, that you updated the information in your NYSOH account on January 19, 2016. You and your spouse enrolled in an Essential Plan that same day. The Essential Plan you selected for yourself and your spouse included both vision and dental coverage, at a monthly premium cost of \$30.38 per person.
- 7) You testified that you spouse paid approximately \$60.00 for Essential Plan coverage for the month of March 2016 before realizing that there should be no premium amount due since you believed that you did not opt to have vision and dental coverage as part of your Essential Plan.
- 8) You testified that you received a partial reimbursement from UHC, but believe that there may additional amounts due to you.
- 9) The record reflects that you contacted NYSOH on February 29, 2016 to disenroll from the Essential Plan with vision and dental coverage. Your coverage was terminated effective March 31, 2016.
- 10) The record reflects that you enrolled in an Essential Plan without any vision or dental coverage on March 14, 2016. Your Essential Plan coverage resumed effective April 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, 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 projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond

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to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility 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.

### Redetermination During a Benefit Year

Any change resulting from redeterminations during a benefit year should be made effective the first day of the month following the date of the notice of redetermination, except that redeterminations resulting from changes made after a date specified by the state, which can be no earlier than the 15<sup>th</sup> of the month, may not be made effective until the first day of the month after the month following the date of the notice of redetermination. (45 CFR § 155.330(f)(1) and (2)). New York has specified that changes made after the 15<sup>th</sup> of a given month will take effect the month after the following month.

### Electronic Notices

If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

### 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)).

## Appealable Issues

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 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) the denial of a request for a special enrollment period (45 CFR § 155.505, 45 CFR § 155.420(d)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that the enrollment of you and your spouse in an Essential Plan was effective March 1, 2016, rather than 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 projected eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On December 23, 2015, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you would qualify for financial help with paying for your health coverage. You were asked to update the information in your account by January 15, 2016 or the financial help you were receiving might end.

Because there was no timely response to this notice, eligibility for financial assistance for you and your spouse was terminated effective January 31, 2016.

You testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did in fact receive electronic alerts regarding the renewal notice, but were not able to access and review them until mid-January 2016 since you were in Florida at that time.

Since the record reflects that the alerts were properly delivered to your e-mail address as you requested, it is concluded that NYSOH did give you the proper notice that you needed to update your account.



Therefore, the record reflects that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated in order to ensure your enrollment in your health plan and eligibility for financial assistance would continue.

The record shows that on January 19, 2016 you updated the information in your NYSOH account.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month. Additionally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. When an individual changes information in their application after the 15th of any month, NYSOH will make the redetermination that results from the change effective the first day of the second following month.

Therefore, NYSOH's January 20, 2016 eligibility determination notice is AFFIRMED because they properly began your enrollment for you and your spouse in an Essential Plan on March 1, 2016.

The next issue under review is whether NYSOH Appeals Unit can consider your appeal regarding the enrollment of you and your spouse in an Essential Plan with dental and vision coverage, at an additional premium cost, effective March 1, 2016, insofar as you were seeking reimbursement of premiums paid during the month of March 2016 since you contend that such enrollment in the dental and vision elements of that Essential Plan was made in error.

You testified that you updated the information in your NYSOH account on January 19, 2016. You and your spouse enrolled in an Essential Plan that same day. You testified that you selected an Essential Plan issued by UHC that did not include vision and dental coverage; however, you were ultimately enrollment in an Essential Plan that included both of these elective options. You testified and your spouse inadvertently paid approximately \$60.00 for coverage during the month of March 2016. You testified that you switched your coverage to an Essential Plan issued by UHC that did not include vision and dental coverage on March 14, 2016. Finally, you testified that while you received a partial reimbursement from UHC, you were seeking to be reimbursed any remaining amounts due to you as a result of this error.

The NYSOH 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) the denial of a request for a special enrollment period.

Since the NYSOH Appeals Unit is not given the authority to review enrollment into a specific plan and reimbursement of premium amounts, we cannot reach the merits as to whether you and your spouse were enrolled in the proper Essential Plan or refunded the appropriate premium amounts, if any. Therefore, the appeal of the enrollment by you and your spouse in the Essential Plan with vision and dental coverage, effective March 1, 2016, and your request for reimbursement amounts, is **DISMISSED** as a non-appealable issue.

Your case, however, is **RETURNED** to NYSOH plan management to facilitate reimbursement of premium amounts due to you, if any, in connection with the enrollment of you and your spouse in an Essential Plan, effective March 1, 2016.

## **Decision**

The January 20, 2016 eligibility determination notice is **AFFIRMED**.

The appeal of you and your spouse enrollment in an Essential Plan with vision and dental coverage during the month of March 2016, and your seeking reimbursement amounts, is **DISMISSED** as a non-appealable issue.

Your case, however, is **RETURNED** to NYSOH plan management to facilitate a reimbursement of premium amounts due to you, if any, in connection with the enrollment of you and your spouse in an Essential Plan, effective March 1, 2016.

**Effective Date of this Decision:** October 14, 2016

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

The enrollment of you and your spouse in an Essential Plan properly began as of March 1, 2016.

NYSOH is unable to address enrollment into specific plan and reimbursement of premium amounts.

## **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.

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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**

The January 20, 2016 eligibility determination notice is **AFFIRMED**.

The appeal of you and your spouse enrollment in an Essential Plan with vision and dental coverage during the month of March 2016, and your seeking reimbursement amounts, is **DISMISSED** as a non-appealable issue.

Your case, however, is **RETURNED** to NYSOH plan management to facilitate a reimbursement of premium amounts due to you, if any, in connection with the enrollment of you and your spouse in an Essential Plan, effective March 1, 2016.

The enrollment of you and your spouse in an Essential Plan properly began as of March 1, 2016.

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NYSOH is unable to address enrollment into specific plans and reimbursement of premium amounts.

### **Legal Authority**

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

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

