



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

## Notice of Decision

Decision Date: December 07, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009101

[REDACTED]

Dear [REDACTED],

On October 28, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 19, 2016 disenrollment notice and April 23, 2016 enrollment 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: AP000000009101



## Issue

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

Did NY State of Health properly determine that you and your spouse were disenrolled from your Essential Plans, effective February 29, 2016, and re-enrolled thereafter, effective June 1, 2016?

## Procedural History

On December 8, 2015, NY State of Health (NYSOH) issued an eligibility determination notice that stated you and your spouse were eligible to enroll in the Essential Plan, with \$20.00 monthly premiums each, effective January 1, 2016.

Also on December 8, 2015, NYSOH issued an enrollment notice confirming your and your spouse' selection of and enrollment in Healthfirst's Essential Plan 1 with a January 1, 2016 start date of coverage.

On April 19, 2016, NYSOH issued separate disenrollment notices that stated your and your spouse's Healthfirst Essential Plan 1 coverage was terminated, effective February 29, 2016, due to nonpayment of premium.

On April 22, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your re-enrollment in the Essential Plan insofar as it did not resume as of March 1, 2016. At that time, you also appealed the disenrollment notices dated April 19, 2016.

On April 23, 2016, NYSOH issued an enrollment notice confirming your and your spouse' re-enrollment in Healthfirst's Essential Plan 1 with a June 1, 2016 start

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date of coverage and a monthly premium of \$20.00 each. There is no eligibility determination notice that corresponds to this enrollment.

On October 28, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and was held open until November 11, 2016 to allow you the opportunity to submit supporting documentation.

On November 11, 2016, you sent to the NYSOH Appeals Unit via secure fax copies of the documents that you were directed by the Hearing Officer to provide. The 44 pages of documents that you sent have been collectively made part of the record as "Appellant's Exhibit # 1." The record is now closed.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) According to your NYSOH account, you submitted an application to NYSOH for financial assistance on December 7, 2015.
- 2) According to your NYSOH account and your testimony at hearing, you and your spouse selected an Essential Plan on December 7, 2015 and were enrolled in an Essential Plan with a plan start date of January 1, 2016.
- 3) You testified that you had set up monthly premium payments by automatic withdrawal from your bank account on the due date each month.
- 4) Appellants Exhibit #1 pages 3 through 13 support your testimony that you paid your January 2016 and February 2016 premiums by automatic withdrawals from your bank account.
- 5) You testified that you and your spouse had medical procedures and treatment in the months of March 2016, April 2016 and May 2016.
- 6) You testified that you received Explanation of Benefits statements from your Essential Plan during this time frame that lead you to believe you had coverage.
- 7) You testified that you were not aware that your and your spouse's Essential Plan had been cancelled until you received a letter from your Essential Plan dated April 18, 2016. Appellant Exhibit # 1 at pages 33-34 is a copy of the Essential Plan's April 18, 2016 letter cancelling your and your spouse's coverage. That letter has no stated end date of coverage.

- 8) According to your NYSOH account, the two separate disenrollment notices dated April 19, 2016 stated your and your spouse's coverage in the Essential Plan was terminated effective February 29, 2016, because premium payments had not been received by the Essential Plan carrier within the required timeframe in order to maintain coverage.
- 9) According to your NYSOH account, on April 23, 2016, an enrollment notice alone was issued indicating your Healthfirst Essential Plan coverage would start June 1, 2016.
- 10) You testified that you want your and your spouse's enrollment in an Essential Plan to resume as of March 1, 2016, to cover the medical treatment and services required during the months of March 2016, April 2016 and May 2016.

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>).

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)).

### Notice – Terminating Enrollment

NYSOH may initiate termination of an enrollee's enrollment in a health plan through NYSOH and must permit a health plan issuer to terminate such coverage or enrollment when the enrollee is no longer eligible for coverage in a health plan through NYSOH with appropriate notice to the enrollee (45 CFR § 155.430(b)(2)(i), (d)).

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For NYSOH-initiated terminations where the enrollee is no longer eligible for coverage in a health plan through NYSOH, the last day of enrollment is the last day of eligibility, as described in 45 CFR § 155.330(f) (45 CFR § 155.430(d)(3)).

Notice of the effective dates for termination of coverage or enrollment must be reasonable, which is defined as at least fourteen days before the requested date of termination (45 CFR § 155.430(d)(1)(i)-(ii)).

Effective dates of termination of coverage or enrollment must be implemented by NYSOH as follows:

- 1) When resulting from a redetermination, the termination date is the first day of the month following the date of the written notice, which must be at least fourteen days before the requested date of termination to be considered timely; or
- 2) When resulting from an appeal decision, on the date specified in the appeal decision; or
- 3) When affecting enrollment or premiums only, on the first day of the month following the date on which the Marketplace is notified on the change.

(45 CFR § 155.330(f)(1)(i)-(iii)).

## **Legal Analysis**

The issue under review is whether NYSOH timely notified you that your coverage provided by your Essential Plan ended on February 29, 2016. Thereafter, you were re-enrolled in the same plan starting June 1, 2016.

NYSOH must provide enrollees with 14 days' written notice that their coverage with a health plan, including the Essential Plan, will be terminated. If NYSOH cannot provide 14 days' written notice, the effective date of termination is the last day of the month after 14 days' written notice has been provided.

The record reflects that NYSOH sent you a disenrollment notice on April 19, 2016, which stated that your health insurance coverage with Healthfirst Essential Plan was terminated, effective February 29, 2016, due to nonpayment of premium. First, it is unclear why you and your spouse were terminated from your Essential Plans since you provided proof of withdrawal by the plan from your bank account for the February 2016 premiums. Secondly, in ordinary circumstances, cancellation of health plan coverage due to nonpayment of premium is not an appealable issue over which the Appeals Unit has jurisdiction. However, the circumstances in your case demonstrate that you did not receive

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timely or adequate notice from either the insurance provider or NYSOH that your and your spouse's coverage was being terminated.

The record reflects that Healthfirst issued a cancellation notice on April 18, 2016 and NYSOH issued notices of your and your spouse's disenrollment on April 19, 2016. Fourteen days written notice of termination of coverage or enrollment is required, which means notice should have been sent no later than February 15, 2016. Since neither the Healthfirst nor NYSOH notices were timely issued, you and your spouse did not receive proper notice of termination of your coverage.

Further, the record is devoid of any explanation as to the delay in notice of termination of your Essential Plan coverage and it is unclear why NYSOH was not notified by Healthfirst in a timely manner and not until April 19, 2016 that your and your spouse's coverages were being cancelled as of February 29, 2016 due to nonpayment of premium.

Therefore, based on the record, you were not provided with reasonable notice by NYSOH or Healthfirst of the termination of your Healthfirst Essential Plan such that your coverage was improperly terminated effective February 29, 2016. In accordance with the rules of notice of termination, the earliest you could be terminated would be the first of the month following the date on which NYSOH is notified of the change. Combined with the 14 day reasonable notice rule, that date is June 1, 2016.

To correct this error, NYSOH's April 19, 2016 disenrollment notices are MODIFIED to state that your and your spouse's health insurance coverage with Healthfirst Essential Plan 1 will terminate effective May 31, 2016.

Your case is RETURNED to NYSOH to facilitate re-instatement of your and your spouse's Healthfirst Essential Plan 1 as of March 1, 2016 through May 31, 2016. Thereafter, your and your spouse's enrollment in Healthfirst Essential Plan 1, as stated in the April 23, 2016 enrollment notice, remains in effect as of June 1, 2016.

You and your spouse will be responsible for paying the monthly premiums due for March 2016, April 2016 and May 2016.

## **Decision**

NYSOH's April 19, 2016 disenrollment notices are MODIFIED to state that your and your spouse's health insurance coverage with Healthfirst Essential Plan 1 will terminate effective May 31, 2016.

Your case is RETURNED to NYSOH to facilitate re-instatement of your and your spouse's Healthfirst Essential Plan 1 as of March 1, 2016 through May 31, 2016.

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The April 23, 2016 enrollment notice confirming your and your spouse's enrollment in Healthfirst Essential Plan 1 as of June 1, 2016 remains in effect.

**Effective Date of this Decision:** December 07, 2016

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

This decision does not change your or your spouse's eligibility.

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

NYSOH will facilitate re-instatement of your and your spouse's Healthfirst Essential Plan 1 from March 1, 2016 to May 31, 2016 and will notify you accordingly.

You and your spouse will be responsible for paying the monthly premiums due for March 2016, April 2016, and May 2016.

Thereafter, your and your spouse's enrollment in that same plan became effective June 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.

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## **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**

NYSOH's April 19, 2016 disenrollment notice is MODIFIED to state that your health insurance coverage with Healthfirst Essential Plan 1 will terminate effective May 31, 2016.

Your case is RETURNED to NYSOH to facilitate re-instatement of your and your spouse's Healthfirst Essential Plan 1 as of March 1, 2016 through May 31, 2016.

The April 23, 2016 enrollment notice confirming your and your spouse's enrollment in Healthfirst Essential Plan 1 as of June 1, 2016 remains in effect.

This decision does not change your or your spouse's eligibility.

The effective date of your and your spouse's Essential Health Plan is January 1, 2016.

NYSOH will facilitate resentment of your and your spouse's Healthfirst Essential Plan 1 from March 1, 2016 to May 31, 2016.

You and your spouse will be responsible for paying the monthly premiums due for March 2016, April 2016, and May 2016.

Thereafter, your and your spouse's enrollment in that same plan became effective June 1, 2016.

## **Legal Authority**

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

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

