



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

Notice of Decision

Decision Date: December 1, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010028

[REDACTED]

Dear [REDACTED],

On November 23, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's May 5, 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 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: December 1, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010028

[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 June 1, 2016?

Procedural History

On October 25, 2015, NY State of Health (NYSOH) issued a renewal notice stating that it was time to renew your health coverage through NYSOH. The notice further stated that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective January 1, 2016, and that you had been enrolled into a Blue Cross Blue Shield Essential Plan 1 with a plan start date of January 1, 2016.

On December 7, 2015, you updated your NYSOH account.

On December 8, 2015, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan with a monthly premium of \$0.00, effective January 1, 2016.

Also on December 8, 2015, NYSOH issued an enrollment confirmation notice confirming your enrollment in a Blue Cross Blue Shield Essential Plan 2 with dental and vision benefits with a monthly premium of \$30.66, and a plan start date of January 1, 2016.

On May 4, 2016, your NYSOH account was updated.

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On May 5, 2016, NYSOH issued a disenrollment notice stating that your enrollment in your Blue Cross Blue Shield plan was ending effective May 31, 2016.

That same day, NYSOH issued a notice of enrollment confirmation confirming your enrollment in a Blue Cross Blue Shield Essential Plan 2 with dental and vision benefits with a monthly premium of \$30.66, and a plan start date of June 1, 2016.

On June 1, 2016, you updated your NYSOH account. That same day, 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 May 1, 2016.

On November 23, 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 were enrolled into an Essential Plan 2, effective January 1, 2016, with a monthly premium of \$30.66.
- 2) You testified that you have had health insurance with Empire Blue Cross Blue Shield for many years and have always set up recurring payment to pay your monthly premiums.
- 3) You testified that, when you became eligible for the Essential Plan and selected a Blue Cross Blue Shield plan, you wanted to set up recurring payments, but were told that your initial payment had to be by phone or check.
- 4) You testified that you paid your first two months' premiums by phone, and then went online and set up recurring payments.
- 5) You testified that, at some point, you received a notice regarding your premium payment, but you disregarded it because you thought everything was fine with the recurring payments you had set up.
- 6) You testified that you received a letter in the mail from your health plan stating that your insurance was terminated and, when you called to find out why, you were told it was for nonpayment.

- 7) You testified that, when you contacted your health plan to find out what happened, the person you spoke with initially told you that it was not possible to set up recurring payments for this plan, but then went online and confirmed that it was possible.
- 8) You testified that you then had a conference call with NYSOH and your health plan, and that the person from your health plan, [REDACTED] told the NYSOH agent that it was not your fault that you had been terminated, and that it was due to a computer error.
- 9) Your NYSOH account reflects that you updated your account on May 4, 2016, and re-enrolled in an Essential Plan that day, with a June 1, 2016 start date.
- 10) You testified that you filed this appeal because you want your plan to begin on May 1, 2016 instead, as you experienced a gap in coverage for the month of May 2016.
- 11) NYSOH's system contains a note made by a NYSOH representative on June 10, 2016 that reads as follows:

“Submitted a backdate request in coverage from 06.01.16 to 05.01.16 to HealthPlus to avoid a lapse in coverage if the member was terminated for non-payment 04.30.16 due to a Plan error.

Per review with HealthPlus: Bill was issued timely, and our retention department has made several attempts to assist member with premium payment, however payment was not received, and enrollment was terminated on 4/30/2016 for non-payment. There was no error on the plan side; member was terminated accordingly for failed [sic] to pay.”

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 to NYSOH's Appeals Unit: (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

(155.405), and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

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 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 for a special enrollment period.

Since 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 nonpayment of premiums. Likewise, we therefore lack the authority to make a determination that you should be placed back into the plan from which you were terminated for nonpayment of premiums.

As such, the only issue under review is whether NYSOH properly determined that your enrollment in the Essential Plan was effective June 1, 2016.

You testified, and the record indicates, that you updated your Essential Plan Enrollment on May 4, 2016.

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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.

You re-enrolled in an Essential Plan on May 4, 2016, so your enrollment properly took effect on the first day of the first month following May; that is, on June 1, 2016.

Therefore, the May 5, 2016 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective June 1, 2016, is correct and must be AFFIRMED.

If you wish to look into whether you can file a complaint regarding Empire Blue Cross Blue Shield, you can contact the NYS Department of Financial Services for more information at (800) 342-3736.

Decision

The May 5, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: December 1, 2016

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

The effective date of your Essential Health Plan is 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.

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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 May 5, 2016 enrollment confirmation notice is AFFIRMED.

This decision does not change your eligibility.

The effective date of your Essential Health Plan is June 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:

