



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

## Notice of Decision

Decision Date: January 30, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010359

[REDACTED]

Dear [REDACTED],

On December 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's May 3, 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 at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(b).

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: January 30, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010359



## Issue

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

Did New York State of Health (NYSOH) properly determine that you and your spouse were enrolled in a qualified health plan (QHP) with a plan enrollment start date of April 1, 2016?

## Procedural History

On April 28, 2016, a financial assistance application was submitted to NYSOH.

On April 29, 2016, NYSOH issued an eligibility determination notice stating, in relevant part, that you and your spouse were eligible to receive up to \$298.00 in advance premium tax credit, effective June 1, 2016.

On May 3, 2016, NYSOH issued an enrollment notice confirming that, as of May 2, 2016, you and your spouse were enrolled in a QHP with a plan enrollment start date of April 1, 2016.

On June 20, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as the plan enrollment start date of your qualified health plan predated your application.

On December 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.

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).

## Findings of Fact

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

1. According to your April 28, 2016 NYSOH application, you and your spouse were applying for health insurance coverage through NYSOH because of the “[l]oss of essential health coverage or will lose coverage” on March 27, 2016.
2. On May 2, 2016, you and your spouse enrolled in an Affinity QHP through NYSOH.
3. On May 3, 2016, NYSOH issued an enrollment notice stating that your and your spouse’s Affinity QHP would have a plan enrollment start date of April 1, 2016 (see Document [REDACTED]).
4. You testified that you did not receive the health insurance cards from Affinity until the end of May 2016.
5. You testified that you and your spouse do not want to be enrolled in a QHP for the months of April and May 2016 because you do not want to be responsible for paying the health insurance premiums for those months.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## Applicable Law and Regulations

### Enrollment in a Qualified Health Plan (QHP)

The NYSOH must provide annual open enrollment periods during which time qualified individuals may enroll in a QHP and enrollees may change QHPs (45 CFR §155.410(a)(1)).

For the benefit year beginning on January 1, 2016, the annual open enrollment period began on November 1, 2015, and extended through January 31, 2016 (45 CFR §155.410(e)(2)).

### Special Enrollment Period (SEP)

After each open enrollment period ends, NYSOH provides a SEP to qualified individuals or their dependents. During a SEP, a qualified individual may enroll in a QHP and an enrollee may change to another QHP (45 CFR § 155.420(a)(1)).

NYSOH must allow a qualified individual or his or her dependent to enroll in a QHP if the qualified individual or their dependent loses minimum essential coverage (45 CFR § 155.420(d)(1)(i)).

Generally, the effective date for a QHP is the first day of the following month if the enrollment is received by NYSOH on or before the fifteenth day of the month, and enrollments received after the fifteenth day of the month are effective the first day of the second following month (45 CFR § 155.420(b)(1)).

When an individual loses minimum essential coverage, if the plan selection is made on or before the date of the loss of coverage, NYSOH must ensure that the coverage effective date is on the first day of the month following the loss of coverage. If the plan selection is made after the date of the loss of coverage, NYSOH must ensure that coverage is effective with the regular effective dates or the first day of the following month (45 CFR § 155.420(b)(iv)).

## **Legal Analysis**

The issue under appeal is whether NYSOH correctly determined that your and your spouse's QHP enrollment start date was April 1, 2016.

The record reflects that you and your spouse applied for coverage through NYSOH because your previous health insurance coverage ended on March 27, 2016. On May 2, 2016, you enrolled in a QHP through NYSOH. On the following day, NYSOH issued an enrollment notice stating that your enrollment would be effective April 1, 2016.

When a qualified individual or their dependent enrolls in a qualified health plan through NYSOH after their minimum essential coverage has ended, the date in which the plan can take effect is either contingent on the day a person selects the plan for enrollment or the first day of the following month.

When a plan is selected between the first day and fifteenth day of a month, the plan's effective date is on the first day of the following month. However, a plan that is selected between the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

You selected the QHP on May 2, 2016, after your minimum essential coverage had ended, so it must take effect on the first day of the following month after May 2016, which is June 1, 2016.

Therefore the May 3, 2016 enrollment notice is MODIFIED to state that the plan enrollment start date of your and your spouse's QHP is June 1, 2016.

## **Decision**

The May 3, 2016 enrollment notice is MODIFIED to state that the plan enrollment start date of your and your spouse's QHP is June 1, 2016.

Your case is RETURNED to NYSOH to effectuate the change in your and your spouse's QHP enrollment start date and to notify you accordingly.

**Effective Date of this Decision:** January 30, 2017

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

Your and your spouse's enrollment start date is modified from April 1, 2016 to June 1, 2016.

NYSOH will modify the start date of your and your spouse's QHP enrollment to June 1, 2016 and notify you once this has been achieved.

## **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 after the date 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 date 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):**

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You can contact us in any of the following ways:

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## **Summary**

The May 3, 2016 enrollment notice is MODIFIED to state that the plan enrollment start date of your and your spouse's QHP is June 1, 2016.

Your case is RETURNED to NYSOH to effectuate the change in your and your spouse's QHP enrollment start date and to notify you accordingly. Your and your spouse's enrollment start date is modified from April 1, 2016 to June 1, 2016.

NYSOH will modify the start date of your and your spouse's QHP enrollment to June 1, 2016 and notify you once this has been achieved.

## **Legal Authority**

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

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

