



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

## Notice of Decision

Decision Date: December 21, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010557

[REDACTED]

Dear [REDACTED],

On December 16, 2016, your authorized representative appeared by telephone at a hearing on your appeal of NY State of Health's June 4, 2016 disenrollment notices, June 24, 2016 eligibility determination notice, and June 24, 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).

This page intentionally left blank.



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

## Decision

Decision Date: December 21, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010557



## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly terminate your, your spouse's, and your child's enrollment in the Essential Plan effective May 31, 2016 because of untimely payment of premiums?

Did NYSOH properly determine that your, your spouse's, and your child's reenrollment in an Essential Plan was effective August 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, your spouse, and your child 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, your spouse, and your child were enrolled in an Essential Plan, and that your, your spouse's, and your child's plan would start January 1, 2016.

On June 4, 2016, NYSOH issued a disenrollment notice advising that your enrollment in your Essential Plan was terminated effective May 31, 2016 as your plan had not received your premium payment within the required timeframe.

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).

Also on June 4, 2016, NYSOH issued disenrollment notices advising that your spouse's and child's enrollment in their Essential Plans was terminated effective May 31, 2016 as their plan had not received their premium payment within the required timeframe.

On June 22, 2016, you contacted NYSOH and updated your application for financial assistance with health insurance.

On June 24, 2016, NYSOH issued a notice of eligibility determination, based on your June 22, 2016 application, stating that you, your spouse, and your child were eligible to reenroll in the Essential Plan, effective August 1, 2016.

Also on June 24, 2016, NYSOH issued a notice of enrollment, based on your plan selection on June 22, 2016, stating that you, your spouse, and your child were enrolled in an Essential Plan, and that your, your spouse's, and your child's plan would start August 1, 2016.

On June 27, 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 June 1, 2016.

On December 13, 2016, you were scheduled for a telephone hearing with a Hearing officer from NYSOH's Appeals Unit. Your child requested that the hearing be adjourned to a later date as you were unavailable at the scheduled time.

On December 16, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, Korean interpreter # [REDACTED] assisted you with your testimony. During the hearing, [REDACTED] acted as your Authorized Representative and assisted you with your testimony. Under oath, your Authorized Representative waived the right to formal notice of the hearing on your behalf. 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) Your authorized representative testified and the record reflects that you, your spouse, and your child were initially enrolled in the Essential Plan, effective January 1, 2016.
- 2) Your authorized representative testified that you received the May premium bill later than usual, however, you did issue the payment on May 24, 2016. Your authorized representative testified that it was her understanding that

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).

this late payment was why you, your spouse, and your child were disenrolled from your Essential Plan.

- 3) Your authorized representative testified that you, your spouse, and your child were without insurance coverage in June and July of 2016.
- 4) Your authorized representative testified that your child has medical bills for July 2016.
- 5) Your authorized representative testified, and the record reflects, that you receive your notices from NYSOH via regular mail.
- 6) Your authorized representative testified that she was not sure if you had received the June 4, 2016 disenrollment notices.
- 7) The record reflects that no notices sent to you have been returned as undeliverable.
- 8) The record reflects that you updated your, your spouse's, and your child's application for financial assistance with health insurance and reenrolled yourself, your spouse, and your child into an Essential Plan on June 22, 2016.

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 under review is whether NYSOH properly terminated your, your spouse's, and your child's enrollment in the Essential Plan effective May 31, 2016 because of non-payment of premiums.

The record indicates that you, your spouse, and your child enrolled into the Essential Plan effective January 1, 2016. Your authorized representative testified that you received the bill for your May 2016 payment later than usual and therefore did not make your payment until May 24, 2016.

On June 4, 2016, NYSOH issued a cancellation notices stating that your, your spouse's, and your child's coverage with the Essential Plan had been terminated effective May 31, 2016 because a premium payment was not received by your plan within the required time frame.

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.

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, your spouse, and your child were properly terminated from your Essential Plan for non-payment of premiums. Therefore, your appeal of the June 4, 2016 disenrollment notices is **DISMISSED** as a non-appealable issue.

The second issue is whether NYSOH properly determined that your, your spouse's, and your child's reenrollment in the Essential Plan was effective August 1, 2016.

The record indicates, that you updated your, your spouse's, and your child's NYSOH application on June 22, 2016. As a result, you, your spouse, and your child were found eligible for the Essential Plan as of August 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 June 22, 2016, you, your spouse, and your child selected an Essential Plan, so your, your spouse's, and your child's enrollment properly took effect on the first day of the second month following June 2016; that is, on August 1, 2016.

Therefore, the June 24, 2016 eligibility determination notice and June 24, 2016 enrollment confirmation notice stating that your, your spouse's, and your child's enrollment in the Essential Plan was effective August 1, 2016, are correct and must be AFFIRMED.

## **Decision**

The appeal of the June 4, 2016 disenrollment notices is DISMISSED.

The June 24, 2016 eligibility determination notice is AFFIRMED.

The June 24, 2016 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** December 21, 2016

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

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

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

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).

## **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.

## **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 appeal of the June 4, 2016 disenrollment notices is **DISMISSED**.

The June 24, 2016 eligibility determination notice is **AFFIRMED**.

The June 24, 2016 enrollment confirmation notice is **AFFIRMED**.

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).



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

The effective date of your, your spouse's, and your child's Essential Health Plan is August 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:**

