



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

## Notice of Decision

Decision Date: January 19, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011105



On December 28, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's July 8, 2016 disenrollment notice and July 28, 2016 enrollment confirmation notices.

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: AP000000011105



## Issues

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

Did NY State of Health (NYSOH) properly disenroll you from your Essential Plan for non-payment of premium effective May 31, 2016?

Did NYSOH properly determine that your enrollment in an Essential Plan was effective September 1, 2016?

## Procedural History

On February 3, 2016, NYSOH issued a notice of eligibility determination, based on your February 2, 2016 application, stating that you were conditionally eligible to enroll in the Essential Plan, effective March 1, 2016. The determination was based on the condition you provide documentation showing your income before May 2, 2016.

On February 3, 2016, NYSOH issued a notice of enrollment, based on your plan selection on February 2, 2016, stating that you were enrolled in an Essential Plan with a premium responsibility of \$20.00, as well as dental coverage for \$14.15 per month, and your plan would start March 1, 2016.

On July 8, 2016, a disenrollment notice was issued terminating your Essential Plan effective May 31, 2016. The notice stated this was because a premium payment was not received by your health plan.

On July 27, 2016, you reenrolled in an Essential Plan effective September 1, 2016.

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Also on July 27, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential insofar as it did not begin June 1, 2016.

On July 28, 2016, an enrollment confirmation notice was issued confirming your enrollment in the Essential Plan with a \$20.00 per month premium and a \$14.15 per month premium for dental coverage effective March 1, 2016 (sic).

On December 28, 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 proceeding.

## **Findings of Fact**

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

- 1) You testified you are seeking insurance for yourself.
- 2) You submitted an application to NYSOH for financial assistance on February 2, 2016.
- 3) You testified, and the record reflects, that you enrolled in an Essential Plan on February 2, 2016.
- 4) You testified and the record reflects you were canceled for non-payment of premium effective May 31, 2016.
- 5) You testified you contacted NYSOH on July 27, 2016, to see if you could re-enroll in the Essential Plan. A NYSOH representative enrolled you in a plan that day.
- 6) You testified that you wanted your enrollment in an Essential Plan to begin on June 1, 2016, and not September 1, 2016.
- 7) You testified you have medical costs for the month of July 2016 which were not covered.
- 8) You testified you believe you made premium payments for the Essential Plan and had signed up for auto-payments.
- 9) The record reflects you were not disenrolled from your dental coverage during this time.

10)The record reflects a notice for non-payment of premium was issued on July 8, 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 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 45 CFR § 155.505; 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 Disenrollment Procedures for Non-Payment of Premium

NYSOH assures that it is providing a minimum grace period of 30 days for the payment of any required premium prior to disenrollment and that it complies with reenrollment standards. (New York's Basic Health Plan Blueprint, p.32, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

### 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 is whether you were properly disenrolled from the Essential Plan effective May 31, 2016.

The record reflects that you were enrolled in an Essential Plan with dental, with a premium responsibility of \$20.00, as well as dental coverage for \$14.15 per month, and your plan would start March 1, 2016.

You testified that you believe you had made premium payments for the Essential Plan for the months of and had signed up for auto-payments.

On July 8, 2016, NYSOH issued a notice of disenrollment stating that your coverage was terminated effective May 31, 2016 because premium payments have not been received by the insurer.

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 were properly terminated from your health plan for non-payment of premiums. Therefore, your appeal of the July 8, 2016 disenrollment notice is DISMISSED as a non-appealable issue.

The second issue is whether NYSOH properly determined that your reenrollment in the Essential Plan was effective September 1, 2016.

According to your testimony you contacted NYSOH on July 27, 2016, to see if you could re-enroll in the Essential Plan after being cancelled for non-payment of premium. A NYSOH representative enrolled you in a plan that day.

You testified that you wanted your enrollment in an Essential Plan to begin on June 1, 2016, as you have medical costs which you incurred while you were without coverage.

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.

Since you selected an Essential Plan and re-enrolled on July 27, 2016, your enrollment properly took effect on the first day of the second month following July; that is, on September 1, 2016.

Therefore, the July 28, 2016, enrollment confirmation notice stating that your enrollment in the Essential Plan was effective March 1, 2016, is MODIFIED to state that your enrollment in your Essential Plan was effective September 1, 2016.

## **Decision**

Your appeal of the July 8, 2016 notice on the issue of disenrollment for non-payment of premium is DISMISSED.

The July 28, 2016, enrollment confirmation notice is MODIFIED to state that your enrollment in your Essential Plan was effective September 1, 2016.

**Effective Date of this Decision:** January 19, 2017

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

This decision does not change your eligibility.

The effective date of your Essential Health Plan is September 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

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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:  
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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

Your appeal of the July 8, 2016 notice on the issue of disenrollment for non-payment of premium is **DISMISSED**.

The July 28, 2016, enrollment confirmation notice is **MODIFIED** to state that your enrollment in your Essential Plan was effective September 1, 2016.

This decision does not change your eligibility.

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

### **Legal Authority**

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

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



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