



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

## Notice of Decision

Decision Date: February 27, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011768

[REDACTED]

Dear [REDACTED],

On January 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 2, 2016 disenrollment notice and July 8, 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]  
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## 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 enrollment in your Essential Plan effective June 30, 2016 because of non-payment of premiums?

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

## Procedural History

On December 18, 2015, NYSOH issued an eligibility determination notice stating, in relevant part, that you were eligible to enroll in the Essential Plan for a limited time effective as of January 1, 2016. The notice directed you to submit income documentation before March 15, 2016 to confirm your eligibility.

Also on December 18, 2015, NYSOH issued an enrollment notice confirming, in relevant part, that you were enrolled in an Essential Plan with an enrollment start date of January 1, 2016.

On July 2, 2016, NYSOH issued a disenrollment notice stating that your enrollment in the Essential Plan was terminated effective June 30, 2016 because a premium had not been received by your Essential Plan within the required time frame.

On July 7, 2016, your NYSOH account was updated.

On July 8, 2016, NYSOH issued an eligibility determination notice, in relevant part, that you were eligible to enroll in the Essential Plan effective as of August 1, 2016.

Also on July 8, 2016, NYSOH issued an enrollment notice confirming, in relevant part, that as of July 7, 2016, you were enrolled in an Essential Plan with an enrollment start date of August 1, 2016.

On August 30, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as the gap in your Essential Plan coverage for July 2016.

On January 18, 2017, 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 supports the following findings of fact:

- 1) You testified that you were enrolled in an Essential Plan with an enrollment start date of January 1, 2016.
- 2) You testified that you learned that you had been disenrolled from your Essential Plan in July 2016 when you were contacted by the pharmacy and advised that your medical coverage was not active.
- 3) You testified that you contacted your Essential Plan, Excellus BlueCross BlueShield (Excellus), after learning that your coverage had been terminated.
- 4) You testified that the Excellus representative stated that the health plan has not received your health insurance premiums for June and July 2016. However, the representative stated that your coverage would be immediately reinstated.
- 5) According to your NYSOH account, you were reenrolled in the Essential Plan on July 7, 2016.
- 6) You testified that you had a medical procedure done in July 2016 that was not covered by Excellus and want to the health plan to cover the \$3,000.00 to \$4,000.00 in medical bills that were incurred.
- 7) You testified that you received a termination letter from Excellus after the medical procedure had been performed.

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 enrollment in the Essential Plan effective June 30, 2016 because of non-payment of premiums.

The record indicates that you were enrolled into the Essential Plan effective January 1, 2016. You discovered that you had been disenrolled from your Essential Plan in July 2016 when your pharmacy notified you that your coverage was no longer active. You contacted Excellus and was informed that your coverage was cancelled because of nonpayment of premiums. However, the health plan representative stated that your coverage would be reinstated immediately.

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On July 2, 2016, NYSOH issued a disenrollment notice stating that your coverage with the Essential Plan had been cancelled effective June 30, 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 were properly terminated from your Essential Plan for non-payment of premiums. Therefore, your appeal of the July 2, 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 August 1, 2016.

The record reflects, that you were reenrolled in an Essential Plan on July 7, 2016.

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 July 7, 2016, you were reenrolled in an Essential Plan, so your enrollment should have taken effect on the first day of the first month following July 7, 2016; that is, on August 1, 2016.

Therefore, the July 8, 2016 enrollment notice stating that your enrollment in the Essential Plan was effective August 1, 2016, is **AFFIRMED**.

## **Decision**

Your appeal of the July 2, 2016 disenrollment notice is **DISMISSED**.

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).

The July 8, 2016 enrollment notice stating that your enrollment in the Essential Plan was effective August 1, 2016, is AFFIRMED.

**Effective Date of this Decision:** February 27, 2017

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

The effective date of your Essential Plan is August 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.

### **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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- By fax: 1-855-900-5557

## **Summary**

Your appeal of the July 2, 2016 disenrollment notice is DISMISSED.

The July 8, 2016 enrollment notice stating that your enrollment in the Essential Plan was effective August 1, 2016, is AFFIRMED.

The effective date of your Essential 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:**

