



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

Notice of Decision

Decision Date: March 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011937

[REDACTED]

Dear [REDACTED]

On January 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 5, 2016 disenrollment notice and August 9, 2016 and September 10, 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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NY State of Health Account ID: [REDACTED]
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Issue

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 July 31, 2016 because of non-payment of premiums?

Did NY State of Health properly determine that your enrollment in an Essential Plan was next effective September 1, 2016?

Procedural History

On February 10, 2016, NYSOH issued an eligibility determination notice, based on your February 9, 2016 application, stating that you were eligible to enroll in the Essential Plan, effective March 1, 2016.

Also on February 10, 2016, NYSOH issued an enrollment notice, based on your plan selection on February 9, 2016, confirming that you were enrolled in an Essential Plan, which would start March 1, 2016.

On August 5, 2016, NYSOH issued a disenrollment notice stating that your Essential Plan coverage was terminated effective July 31, 2016 due to non-payment of premiums.

On August 8, 2016, you reapplied for coverage through NYSOH and re-enrolled into the Essential Plan.

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On August 9, 2016, NYSOH issued an eligibility determination notice stating that you were eligible for the Essential Plan for a limited time contingent on you providing income documentation, effective September 1, 2016.

Also on August 9, 2016, NYSOH issued an enrollment notice confirming that your coverage in an Essential Plan would start September 1, 2016.

On September 9, 2016, you contacted NYSOH and re-enrolled into an Essential Plan. That same day, NYSOH issued a preliminary determination stating that your enrollment in your Essential Plan would start October 1, 2016.

Also on September 9, 2016, you spoke to NYSOH's Account Review Unit and appealed the appealed the start date of your enrollment in the Essential Plan insofar as it did not begin August 1, 2016.

On September 10, 2016, NYSOH issued an enrollment notice, based on your plan selection on September 9, 2016, confirming that you were enrolled in the Essential Plan, which would start September 1, 2016.

On January 6, 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 were enrolled in an Essential Plan as of March 1, 2016.
- 2) You testified that you paid your monthly \$20.00 premium by automatic deduction from your checking account. However, the automatic premium payment for July 2016 was not made because you had insufficient funds in your account at that time.
- 3) You testified that you did not know you had missed an automatic payment or that you had been disenrolled from your health plan.
- 4) You testified that on [REDACTED], you went for surgery. You testified you gave the surgical facility your health I.D. card and they told you had to pay a \$50.00 co-pay. You testified no one there told you your insurance was not in effect.
- 5) You testified that, when you received the August 5, 2016 disenrollment notice, you contacted your plan and asked them to take the late payment.

You stated the plan said it could not accept your late payment and that you needed to contact NYSOH.

- 6) According to your NYSOH account and your testimony, you contacted NYSOH on August 8, 2016. You testified that NYSOH representative advised that you needed to reapply for health insurance again, which you did.
- 7) According to your NYSOH account and your testimony, you were found eligible for the Essential Plan and re-enrolled in a plan at that time with a September 1, 2016 start date. You testified you asked NYSOH to backdate the start date of the plan to August 1, 2016 and were denied.
- 8) You testified that you now have a \$12,000.00 bill for [REDACTED] procedure which you could have easily postponed had you known your coverage had been terminated.
- 9) You testified that you wanted your enrollment in an Essential Plan to begin on August 1, 2016 because you had surgery [REDACTED] 2016 and now have substantial uncovered medical expenses.

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 NYSOH 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>).

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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 the NYSOH has the authority to review your disenrollment from the Essential Plan due to non-payment of premiums.

On August 5, 2016, NYSOH issued a disenrollment notice stating that your coverage in your Essential Plan was terminated effective July 31, 2016 because of non-payment of premiums.

You testified that you had set up an automatic payment plan so the \$20.00 monthly premium for your Essential Plan was paid out of your checking account every month. You testified that the July 2016 premium payment was not made because there were insufficient funds in your account to make the payment. As a result of the non-payment of premium, your plan requested termination which was effective July 31, 2016.

The NYSOH 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 NYSOH 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 August 5, 2016 disenrollment notice is DISMISSED as a non-appealable issue.

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

According to your NYSOH account and your testimony, after being disenrolled, you contacted NYSOH and reapplied for health insurance on August 8, 2016 and

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were determined eligible for the Essential Plan that same day. You also re-enrolled in an Essential Plan on August 8, 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 August 8, 2016, you selected an Essential Plan, so your enrollment properly took effect on the first day of the first month following August 2016; that is, on September 1, 2016.

Therefore, the August 9, 2016 and the September 10, 2016 enrollment confirmation notices stating that your enrollment in the Essential Plan was effective September 1, 2016, are correct and must be AFFIRMED.

Decision

Your appeal of the August 5, 2016 disenrollment notice is DISMISSED as a non-appealable issue.

The August 9, 2016 and the September 10, 2016 enrollment confirmation notices are AFFIRMED.

Effective Date of this Decision: March 3, 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.

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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 August 5, 2016 disenrollment notice is **DISMISSED** as a non-appealable issue.

The August 9, 2016 and the September 10, 2016 enrollment confirmation notices are **AFFIRMED**.

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:

