



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

Notice of Decision

Decision Date: February 21, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012062

[REDACTED]

Dear [REDACTED]

On December 30, 2016, you and your authorized representative appeared by telephone at a hearing of your appeal of the termination of your Essential Plan for non-payment of premiums and NYSOH's September 17, 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 Date: February 21, 2017

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:

Was your enrollment in your Essential Plan properly terminated effective August 31, 2016 because of non-payment of premiums?

Did New York State of Health (NYSOH) properly determine that your enrollment in the Essential Plan was effective November 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 effective as of January 1, 2016.

Also 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 1, 2016, NYSOH issued a disenrollment notice stating that your Essential Plan would be terminated effective June 30, 2016 because premium payment(s) had not been received by the health plan.

On July 12, 2016, NYSOH issued an enrollment notice confirming, in relevant part, that you were enrolled in an Essential Plan with a plan enrollment start date of August 1, 2016.

On September 17, 2016, NYSOH issued a disenrollment notice stating that you requested to end your insurance on September 16, 2016, and you would no longer have coverage effective September 30, 2016.

Also on September 17, 2016, NYSOH issued an enrollment notice confirming, in relevant part, that you enrolled in an Essential Plan with an enrollment start date of November 1, 2016.

On September 19, 2016 you spoke to NYSOH's Account Review Unit and requested an appeal insofar as the disenrollment of your Essential Plan effective August 31, 2016, and being re-enrolled in that plan effective November 1, 2016.

On December 22, 2016, you had a scheduled telephone hearing with a Hearing Officer from NYSOH's Appeal Unit. You requested to adjourn the hearing until December 30, 2016 to allow your authorized representative the opportunity to participate in the hearing. You waived formal notice of hearing, and the hearing was adjourned to December 30, 2016.

On December 30, 2016, you and your authorized representative had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, and the record was left open to allow your authorized representative to fax additional documentation to NYSOH's Appeals Unit and allow the Hearing Officer to request the recording of your September 16, 2016, conversation with NYSOH's customer service.

On December 30, 2016, your authorized representative faxed eight-pages of documentation to NYSOH's Appeals Unit. The documentation has been incorporated into the record and will be collectively referred to as "Appellant Exhibit A." Your authorized representative submitted:

- (a) A cover letter that includes a list of the documentation included in the fax;
- (b) Invoice [REDACTED] from Univera Healthcare, dated July 12, 2016, for the billing period of 7/1/2016 – 7/31/2016;
- (c) Invoice # [REDACTED] from Univera Healthcare, dated July 12, 2016, for the billing period of 8/1/2016 – 8/31/2016;
- (d) Invoice [REDACTED] from Univera Healthcare, dated August 8, 2016, for the billing period of 9/1/2016 – 9/30/2016;
- (e) A notice from Univera Healthcare, dated September 6, 2016, stating that your health insurance coverage has ended and would be responsible to pay for any services received after August 31, 2016;
- (f) Invoice for 9/2/2016 medical appointment, dated September 16, 2016, showing an outstanding balance of \$80.00;
- (g) Laboratory invoice for 9/2/2016 medical tests by [REDACTED], dated December 7, 2016, with an amount due of \$898.14;

(h) Invoice, dated November 17, 2016, from [REDACTED] for services received on October 3, 2016, and October 10, 2016. The invoice indicates that you were billed \$486.00 for those service dates.

The recording of the September 16, 2016 conversation between the appellant and NYSOH's customer service was received by the Appeals Unit on January 30, 2016, and was entered into the record as "Exhibit 1." The record is now complete and closed.

Findings of Fact

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

- 1) According to your NYSOH account, your Essential Plan coverage was discontinued on June 30, 2016. You were re-enrolled in the same Essential Plan, through Univera HealthCare, with an enrollment start date of August 1, 2016.
- 2) Univera Healthcare issued you a notice, dated September 6, 2016, stating that your health insurance coverage ended, and you would be responsible to pay for any services received after 8/31/2016 (Appellant Exhibit A pg. 5).
- 3) According to your NYSOH account, your Essential Plan coverage was not terminated until September 30, 2016.
- 4) You testified that you contacted Univera Healthcare and was directed to contact NYSOH to have your health insurance reinstated.
- 5) You testified you contacted NYSOH on September 16, 2016, to reinstate your health insurance with Univera HealthCare.
- 6) According to Exhibit 1, you told the NYSOH representative that you set up automatic payments with the health plan. However, you were terminated effective September 1, 2016, for nonpayment because the health plan never received the August 2016 premium payment.
- 7) According to Exhibit 1, you were directed by the NYSOH representative to contact the health plan directly to request retroactive enrollment.
- 8) According to your NYSOH account, you re-enrolled in an Essential Plan on September 16, 2016.
- 9) You testified that you are seeking to be enrolled in an Essential Plan for the months of September and October 2016.

10) You incurred medical expenses because you were not enrolled in an Essential Plan for the months of September and October 2016. You incurred the following expenses for medical services and tests: \$978.14 on September 2, 2016; \$274.00 on October 3, 2016, and \$212.00 on October 10, 2016 (Appellant Exhibit A pgs. 6-8).

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 your enrollment in your Essential Plan was properly terminated effective August 31, 2016 because of non-payment of premiums.

The record indicates that you were initially enrolled into the Essential Plan effective January 1, 2016. Subsequently, your coverage was terminated effective June 30, 2016, and you were re-enrolled in the same Essential Plan effective August 1, 2016.

The health plan issued you a notice, dated September 6, 2016, stating that your health insurance coverage ended, and you would be responsible to pay for any services received after 8/31/2016. You contacted NYSOH on September 16, 2016, and told the NYSOH representative that you set up automatic payments with the health plan. However, you were terminated effective September 1, 2016, for non-payment of premiums because the health plan never received the August 2016 premium payment.

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, the issue of whether your health plan properly terminated your coverage effective August 31, 2016 because of non-payment of premiums is DISMISSED as a non-appealable issue.

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

The record reflects that you contacted NYSOH on September 16, 2016, to reinstate your Essential Plan 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 re-enrolled in your Essential Plan on September 16, 2016, it properly took effect on the first day of the second month following September 16, 2016; that is, on November 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).

Therefore, the September 17, 2016, enrollment notice confirming that you enrolled in an Essential Plan with an enrollment start date of November 1, 2016 is AFFIRMED.

Your NYSOH account reflects that you were enrolled in an Essential Plan through September 30, 2016. However, your health plan has issued a notice stating that your coverage was terminated effective August 31, 2016. Therefore, the record contains inconsistent information regarding when your Essential Plan was in fact cancelled. Your case is RETURNED to NYSOH's Plan Management Unit to investigate whether or not you were enrolled in an Essential Plan for the month of September 2016 and shall notify you of the results.

Decision

The issue of whether your health plan properly terminated your coverage effective August 31, 2016 because of non-payment of premiums is DISMISSED as a non-appealable issue.

The September 17, 2016, enrollment notice confirming that you enrolled in an Essential Plan with an enrollment start date of November 1, 2016 is AFFIRMED.

Your case is RETURNED to NYSOH's Plan Management Unit to investigate whether or not you were enrolled in an Essential Plan for the month of September 2016 and shall notify you of the results.

Effective Date of this Decision: February 21, 2017

How this Decision Affects Your Eligibility

The effective date of your Essential Plan is November 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.

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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 issue of whether your health plan properly terminated your coverage effective August 31, 2016 because of non-payment of premiums is **DISMISSED** as a non-appealable issue.

The September 17, 2016, enrollment notice confirming that you enrolled in an Essential Plan with an enrollment start date of November 1, 2016 is **AFFIRMED**.

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

Your case is **RETURNED** to NYSOH's Plan Management Unit to investigate whether or not you were enrolled in an Essential Plan for the month of September 2016 and shall notify you of the results.

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:

[REDACTED]

[REDACTED]