



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

Notice of Decision

Decision Date: March 07, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012098

[REDACTED]

Dear [REDACTED],

On January 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 21, 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: March 07, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012098



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 and your spouse's enrollment in the Essential Plan effective July 1, 2016, August 1, 2016 and September 1, 2016 because of non-payment of premiums?

Did NY State of Health properly determine that your and your spouse's enrollment in an Essential Plan was effective November 1, 2016?

Procedural History

On March 17, 2016, NYSOH issued an eligibility determination notice, based on your March 16, 2016 application, stating in part that you and your spouse were eligible to enroll in the Essential Plan, effective May 1, 2016.

Also on March 17, 2016, NYSOH issued an enrollment confirmation notice stating in part that you and your spouse were enrolled in an Essential Plan with MetroPlus Health Plan, with coverage starting May 1, 2016.

On June 9, 2016, NYSOH issued a disenrollment notice confirming your request to end your and your spouse's coverage with MetroPlus Health Plan effective June 30, 2016.

Also on June 9, 2016, NYSOH issued an enrollment confirmation notice, based on your plan selection on June 8, 2016, stating in part that you and your spouse

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).

were enrolled in an Essential Plan with EmblemHealth, with coverage starting July 1, 2016.

On July 16, 2016, NYSOH issued two separate cancellation notices, each stating that you and your spouse's coverage with Essential Plan 2 with EmblemHealth was cancelled effective July 1, 2016, because premium payments had not been received within the required timeframe.

On July 30, 2016, NYSOH issued an enrollment confirmation notice, based on your plan selection on July 29, 2016, stating in part that you and your spouse were enrolled in Essential Plan 2 with EmblemHealth, and coverage in your plan would start September 1, 2016.

On August 31, 2016, NYSOH issued an enrollment confirmation notice stating that you were enrolled in Essential Plan 2 with EmblemHealth with an enrollment start date of August 1, 2016. That enrollment notice further stated that your spouse was enrolled in Essential Plan 2 with EmblemHealth, and that his plan enrollment start date was September 1, 2016.

On September 17, 2016, NYSOH issued a cancellation notice that stated your spouse's coverage in the Essential Plan 2 with EmblemHealth was cancelled effective September 1, 2016 because premium payments had not been received within the required timeframe.

On September 20, 2016, NYSOH issued a cancellation notice that stated your coverage with Essential Plan 2 with EmblemHealth was cancelled effective August 1, 2016 because premium payments had not been received within the required timeframe.

Also on September 20, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your and your spouse's enrollment in the Essential Plan insofar as both did not begin August 1, 2016.

On September 21, 2016, NYSOH issued an enrollment confirmation notice stating in part that you and your spouse were enrolled in an Essential Plan 2 with EmblemHealth with an enrollment start date of November 1, 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) According to your NYSOH account and your testimony, you changed Essential plans on June 8, 2016 and enrolled in an Essential Plan with EmblemHealth starting July 1, 2016.
- 2) According to your NYSOH account, on July 16, 2016, NYSOH issued cancellation notices stating that your and your spouse's coverage in your Essential Plan 2 with EmblemHealth was cancelled effective July 1, 2016 because of non-payment of premiums.
- 3) According to your NYSOH account, on July 29, 2016 you and your spouse reenrolled in Essential Plan 2 with Emblem Health with an enrollment start date of September 1, 2016.
- 4) According to your NYOSH account, on August 31, 2016, only your start date in the Essential Plan 2 with Emblem Health was backdated by NYSOH to August 1, 2016 because of a processing error. NYSOH did not backdate your spouse's Essential Plan 2 with Emblem Health.
- 5) According to your NYSOH account, on September 17, 2016 your spouse's Essential Plan 2 with Emblem Health was cancelled effective September 1, 2016 because of non-payment of premium.
- 6) According to your NYSOH account, on September 20, 2016, your Essential Plan 2 with Emblem Health was cancelled effective August 1, 2016 because of non-payment of premium.
- 7) According to your NYSOH account and your testimony, you re-enrolled you and your spouse in Essential Plan 2 with Emblem Health on September 20, 2016.
- 8) You testified that you had been on automatic monthly payment of your health plan premiums. You testified that there were problems with the automatic payments due to the plan taking payments for you and not your spouse.
- 9) You testified that you did not receive a bill from your health plan for one of the months in questions and did not know there was a problem with the automatic payments.
- 10) You testified that you spoke with both the health plan and with NYSOH in multiple attempts to get the billing issues cleared up without success.

11) You testified that you and your spouse have medical bills that are unpaid because you both did not have health coverage for the months of August 2016, September 2016 and October 2016.

12) You testified that you wanted your and your spouse's enrollment in your Essential Plan 2 with Emblem Health to begin on August 1, 2016 because of these unpaid medical bills.

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 the Appeals Unit of NYSOH: (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, and (4) a failure by NYSOH to provide timely notice of an eligibility determination (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 and your spouse's enrollment in your Essential Plans, effective July 1, 2016, August 1, 2016 and September 1, 2016 because of non-payment of premiums.

On July 16, 2016, NYSOH issued disenrollment notices stating that your and your spouse's coverage in your Essential Plan was terminated effective July 1, 2016 because of non-payment of premiums.

On July 30, 2016, NYSOH issued enrollment confirmations for you and your spouse in Essential Plan 2 with Emblem Health effective September 1, 2016.

On August 31, 2016, NYSOH issued a revised enrollment confirmation changing your start date with Essential Plan 2 with Emblem Health to August 1, 2016. That same notice did not change your spouse's Essential Plan 2 with Emblem Health and his start date remained September 1, 2016.

You testified that you never received a bill from the health plan for September 2016 premiums. You testified you were unaware of the problem with the automatic payment plan. You testified that because of the termination of your health coverage, you and your spouse were without health insurance for several months and incurred medical expenses during the period of August 1, 2016 to October 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 and your spouse were properly terminated from your Essential Plan(s) for non-payment of premiums. Therefore, your appeals of the July 16, 2016, September 17, 2016 and September 20, 2016 cancellation notices are DISMISSED as non-appealable issues.

The second issue under review is whether NYSOH properly determined that your and your spouse's enrollment in the Essential Plan was effective November 1, 2016.

You testified, and the record indicates, that after having been disenrolled from the Essential Plan 2 with Emblem Health by the September 17, 2016 and September 20, 2016 notices, you and your spouse re-enrolled in the Essential Plan on September 20, 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 September 20, 2016, you and your spouse selected an Essential Plan, so your enrollments properly took effect on the first day of the second month following September 2016; that is, on November 1, 2016.

Therefore, the September 21, 2016 enrollment confirmation notice stating that you and your spouse's enrollment in the Essential Plan was effective November 1, 2016, is correct and must be AFFIRMED.

Decision

Your appeals of the July 16, 2016, September 17, 2016 and September 20, 2016 cancellation notices are DISMISSED as non-appealable issues.

The September 21, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: March 07, 2017

How this Decision Affects Your Eligibility

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

The effective start date of your and your spouse's Essential Plan is November 1, 2016.

You and your spouse did not have health insurance coverage through NYSOH during the months of July 2016, August 2016, September 2016 and October 2016.

If You Disagree with this Decision (Appeal Rights)

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 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

Your appeals of the July 16, 2016, September 17, 2016 and September 20, 2016 cancellation notices are **DISMISSED** as non-appealable issues.

The September 21, 2016 enrollment confirmation notice is **AFFIRMED**.

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

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 effective start date of your and your spouse's Essential Plan is November 1, 2016.

You and your spouse did not have health insurance coverage through NYSOH during the months of July 2016, August 2016, September 2016 and October 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

