



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

## Notice of Decision

Decision Date: March 21, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012212

[REDACTED]

On January 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 30, 2016 disenrollment notice, and August 25, 2016 enrollment notice regarding the start date of your family's reenrollment in coverage.

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:

Can the NY State of Health (NYSOH) Appeals Unit consider your appeal regarding the cancellation of coverage in your qualified health plan effective April 30, 2016 because of non-payment of premiums?

Did NYSOH properly determine that your family's reenrollment in coverage could be effective no earlier than October 1, 2016?

## Procedural History

On February 12, 2016, NYSOH issued an eligibility determination notice stating you and your family were eligible to purchase a qualified health plan (QHP) at full cost through NYSOH, effective March 1, 2016.

Also on February 12, 2016, NYSOH issued a notice of enrollment confirmation stating you and your family were enrolled in a QHP with Empire Blue Cross Blue Shield with a \$1,471.57 monthly premium, effective March 1, 2016.

In April 2016 you filed three applications, resulting in several changes to your family's eligibility and enrollment.

On May 7, 2016, NYSOH issued an eligibility determination notice, based on your May 6, 2016 *non-financial* application, stating you and your family were eligible to purchase a qualified health plan at full cost, effective June 1, 2016.

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Also on May 7, 2016, NYSOH issued a notice of enrollment confirmation stating you and your family, including your newborn child, were enrolled in a QHP with Empire Blue Cross Blue Shield with a \$1,577.19 monthly premium, effective June 1, 2016.

On June 30, 2016, NYSOH issued a disenrollment notice stating the QHP you and your family were enrolled in was terminated, effective April 30, 2016, because premium payment(s) had not been received by the health plan.

You next updated your account on August 10, 2016, to resubmit a nonfinancial application. After you were denied a special enrollment period, on August 15, 2016 you once again updated your account multiple times, changing back and forth between requesting and declining financial assistance.

On August 16, 2016, NYSOH issued a new notice of eligibility determination, finding that you were eligible for a special enrollment period.

You did not select a new plan for your family until August 24, 2016.

In a notice issued on August 25, 2016, NYSOH confirmed that your reenrollment was effective October 1, 2016.

Also on August 25, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were not eligible for retroactive Medicaid benefits for the period from May 1, 2016 to July 31, 2016, because the program you are eligible for cannot pay for any care you received in the past.

On September 15, 2016, NYSOH issued another notice of enrollment confirmation stating you and your family were enrolled in a QHP, effective October 1, 2016.

On September 24, 2016, you spoke to NYSOH's Account Review Unit and appealed the disenrollment from your family's QHP insofar you and your family did not have coverage under a full-cost QHP from April 1, 2016 to June 30, 2016.

On January 17, 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) On February 11, 2016, you submitted a non-financial application for health insurance to NYSOH.

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- 2) You, your spouse, and your eldest child enrolled into a full-cost QHP with Empire Blue Cross Blue Shield with a \$1,471.57 monthly premium, effective March 1, 2016 (first full-cost QHP enrollment).
- 3) You testified you set up an automatic electronic payment arrangement with the health plan at this time, wherein the cost of the monthly premium was to be automatically deducted from your financial account each month by the health plan on the payment due date.
- 4) According to your NYSOH account, your youngest child was born [REDACTED] and added to the account on April 14, 2016.
- 5) On April 18, 2016, you submitted an application for financial assistance to NYSOH and you and your spouse were determined eligible to receive advance premium tax credits (APTC) and your children were determined eligible to enroll in a Child Health Plus plan. The same day, you selected health plans for you, your spouse, and your children; coverage would become effective June 1, 2016.
- 6) On May 6, 2016, you contacted NYSOH to update your application to a non-financial application and your family was determined eligible to purchase a full-cost QHP. The same day, you enrolled your family, including your youngest child, into a QHP with Empire Blue Cross Blue Shield with a \$1,577.19 monthly premium, effective June 1, 2016 (second full-cost QHP enrollment).
- 7) The second full-cost QHP enrollment effectively cancelled the previous enrollments into the QHP with APTC for you and your spouse and Child Health Plus for your children. Those enrollments never became effective.
- 8) On May 16, 2016, you contacted NYSOH (incident [REDACTED]) and requested your youngest child's health coverage be backdated to provide immediate coverage because of a medical need requiring treatment.
- 9) On May 17, 2016, NYSOH backdated the end date of your family's first full-cost QHP enrollment to March 31, 2016 and also backdated the start date of your family's second full-cost QHP enrollment to April 1, 2016 (incident [REDACTED]).
- 10) You testified you do not remember whether NYSOH notified you that the second full-cost QHP enrollment had been backdated to April 1, 2016.
- 11) Your family's second QHP enrollment was terminated, effective April 30, 2016, because premium payment(s) had not been received by the health plan.

- 12) You testified, and your account corroborates, both the first and second QHP enrollments were with the same health plan.
- 13) You testified the health plan automatically deducted monthly premium payments for the months of March, April, and May 2016.
- 14) You testified you first learned your family's second full-cost QHP coverage was terminated in July 2016 when you were informed by your child's pediatrician's office while seeking treatment.
- 15) You testified you contacted your health plan immediately and you were told the automatic payment plan you set up for the first full-cost QHP enrollment was not set up for the second full-cost QHP enrollment.
- 16) You testified you were unaware the automatic electronic payment arrangement was not set up for the second full-cost QHP enrollment.
- 17) You acknowledge you did not make the June 2016 monthly premium payment to the QHP.
- 18) You testified the health plan told you it had sent you reimbursement checks for the months of March, April, and May 2016. You testified you have not received any reimbursement checks from the health plan.
- 19) You testified the health plan told you it was unable to reinstate your plan and directed you to file an appeal with NYSOH.
- 20) You testified the health plan is not covering claims in April 2016 relating to the birth of your child.
- 21) Your account indicates you submitted several non-financial applications to NYSOH in August 2016, but you and your family were denied a special enrollment period in which to enroll in a QHP outside of open enrollment for 2016.
- 22) Your account indicates you then submitted an application for financial assistance and you and your spouse were granted a special enrollment period to enroll into a QHP with APTC, effective October 1, 2016. Your children were enrolled in a Child Health Plus plan, also effective October 1, 2016.
- 23) Your account indicates you and your family were without health coverage through NYSOH from May 1, 2016 to September 30, 2016.
- 24) You testified you are seeking reinstatement into your family's full cost QHP for the period of March 1, 2016 to June 30, 2016.

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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)).

### Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health 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)). 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 the Appeals Unit of NY State of Health (NYSOH) can consider your appeal regarding the cancellation of coverage in your qualified health plan because of non-payment of premiums, effective April 30, 2016.

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 for a special enrollment period.

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 coverage for you and your spouse was properly terminated for nonpayment of premiums. Therefore, your appeal of the June 30, 2016 cancellation notice is **DISMISSED** as a non-appealable issue.

The second issue under review is whether NYSOH properly determine that your family's reenrollment in coverage could be effective no earlier than October 1, 2016.

The record shows that you did not select a new plan for your family until August 24, 2016. On August 25, 2016, NYSOH confirmed that your reenrollment was effective October 1, 2016.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month. Additionally, the date on which a qualified health 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 fifteenth day of a month goes into effect on the first day of the following month.

Therefore, NYSOH's August 25, 2016 enrollment confirmation notice is **AFFIRMED** because it properly began your enrollment in your qualified health plan on October 1, 2016.

## **Decision**

Your appeal of the June 30, 2016 disenrollment notice is **DISMISSED** as a non-appealable issue.

The August 25, 2016 enrollment confirmation notice is **AFFIRMED**.

**Effective Date of this Decision:** March 21, 2017

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

This decision does not change dates of your coverage.

## **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 appeal of the June 30, 2016 disenrollment notice is **DISMISSED** as a non-appealable issue.

The August 25, 2016 enrollment confirmation notice is **AFFIRMED**.

This decision does not change dates of your coverage.

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## **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:**

