



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

Notice of Decision

Decision Date: February 15, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012283

[REDACTED]

Dear [REDACTED]

On February 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 8, 2016 disenrollment notice, September 24, 2016 eligibility determination notice and September 24, 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).

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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 and your spouse's enrollment in your Essential Plan effective June 30, 2016 because of non-payment of premiums?

Did NYSOH properly determine that your and your spouse's enrollment in the Essential Plan was effective November 1, 2016?

Procedural History

On March 22, 2016, you updated your application for financial assistance with health insurance.

On March 23, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible for the Essential Plan for a limited time, effective May 1, 2016.

Also on March 23, 2016, NYSOH issued a notice of enrollment confirming your and your spouse's enrollment in an Essential Plan with a plan enrollment start date of February 1, 2016.

On August 8, 2016, NYSOH issued disenrollment notices advising that your and your spouse's enrollment in the Essential Plan was terminated effective June 30, 2016 because a premium had not been received by your Essential Plans within the required time frame.

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On September 23, 2016, you contacted NYSOH and reenrolled yourself and your spouse into an Essential Plan.

On September 24, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible for the Essential Plan, effective November 1, 2016.

Also on September 24, 2016, NYSOH issued an enrollment notice confirming your and your spouse's enrollment in your Essential Plan, effective November 1, 2016.

On September 28, 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 it did not begin October 1, 2016.

On January 31, 2017, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date.

On February 10, 2017, you had an adjourned hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the hearing. The record was developed during the hearing and closed at the end of the day.

Findings of Fact

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

- 1) You testified that you and your spouse were disenrolled from your Essential Plan for failure to pay premiums.
- 2) You testified that you believe you may have missed a premium payment at some point in time.
- 3) You testified that you learned that you and your spouse had been disenrolled from your Essential Plan in September 2016 by either a pharmacy or doctor's office.
- 4) You testified that you contacted NYSOH at some point in mid-September 2016 to reenroll into an Essential Plan.
- 5) The record reflects that you contacted NYSOH to reenroll yourself and your spouse in an Essential Plan on September 23, 2016.

- 6) You testified that you have employer sponsored health insurance as of November 1, 2016.
- 7) You testified that you wanted your enrollment in an Essential Plan to begin on October 1, 2016 because you have outstanding medical bills for October 2016.

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 and your spouse's enrollment in the Essential Plan effective June 30, 2016 because of non-payment of premiums.

The record indicates that you enrolled into the Essential Plan effective February 1, 2016. You testified that you may have missed a premium payment.

On August 8, 2016, NYSOH issued cancellation notices stating that your and your spouse's 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 and your spouse were properly terminated from your Essential Plans for non-payment of premiums. Therefore, your appeal of the August 8, 2016 cancellation notices is DISMISSED as a non-appealable issue.

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

The record indicates, that you updated your and your spouse's NYSOH application on September 23, 2016. As a result, you and your spouse were found eligible for the Essential Plan as of November 1, 2016 and enrolled into a plan that day.

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 23, 2016, you and your spouse selected an Essential Plan, so your and your spouse's enrollment properly took effect on the first day of the second month following September 2016; that is, on November 1, 2016.

Therefore, the September 24, 2016 eligibility determination notice and September 24, 2016 enrollment confirmation notice stating that your and your spouse's enrollment in the Essential Plan was effective November 1, 2016, are correct and must be AFFIRMED.

Decision

The appeal of the August 8, 2016 disenrollment notices is DISMISSED.

The September 24, 2016 eligibility determination notice is AFFIRMED.

The September 24, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: February 15, 2017

How this Decision Affects Your Eligibility

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

The effective date of your and your spouse's Essential Health 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.

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 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).

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 appeal of the August 8, 2016 disenrollment notices is DISMISSED.

The September 24, 2016 eligibility determination notice is AFFIRMED.

The September 24, 2016 enrollment confirmation notice is AFFIRMED.

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

The effective date of your and your spouse's Essential Health Plan is November 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:

