



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

Notice of Decision

Decision Date: February 7, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012521

[REDACTED]

Dear [REDACTED]

On December 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's June 2, 2016 eligibility determination notice, June 4, 2016 disenrollment notice and October 6, 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 you provide a timely request for appeal of your disenrollment from the Essential Plan because you were no longer eligible to remain enrolled in that program effective July 1, 2016?

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

Procedural History

On May 11, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your May 9, 2016 application stating that you were eligible to enroll in the Essential Plan, effective June 1, 2016. The notice stated this determination was conditional. You were asked to provide additional information to confirm your income before August 7, 2016. The determination was based on your attested household income of \$19,500.00.

Also on May 11, 2016, an enrollment confirmation notice was issued confirming your enrollment on May 9, 2016 in the Essential Plan effective June 1, 2016.

On May 31, 2016, NYSOH received your income documentation.

On June 2, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to receive advance premium tax credits of up to \$221.00 per month as well as cost-sharing reductions effective July 1, 2016. The notice

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further stated that you were not eligible for the Essential Plan because your income was over the allowable income limit for that program.

On June 4, 2016, a disenrollment notice was issued terminating your coverage in the Essential Plan effective June 30, 2016. The notice stated this was because you were no longer eligible to remain enrolled in your current health insurance.

On September 21, 2016, an enrollment confirmation notice was issued stating that you were enrolled in a Silver level qualified health plan with a premium responsibility of \$153.10 per month starting July 1, 2016.

On October 6, 2016, a cancellation notice was issued terminating your qualified health plan effective November 1, 2016. The notice stated this was based on your request received on October 5, 2016.

Also on October 6, 2016, an enrollment confirmation notice was issued confirming your enrollment in the Essential Plan 2 with Vision and Dental effective November 1, 2016.

On October 10, 2016, an eligibility redetermination notice was issued stating that you were conditionally eligible to enroll in the Essential Plan effective November 1, 2016. The notice asked that you provide documentation confirming your income by January 3, 2017. The determination was based on your attested household income of \$16,496.00.

On October 13, 2016, you spoke to NYSOH's Account Review Unit and appealed the disenrollment from your Essential Plan effective July 1, 2016.

On December 22, 2016, 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 are seeking insurance for yourself.
- 2) You submitted an application to NYSOH for financial assistance on May 9, 2016.
- 3) You testified, and the record reflects, that you enrolled in an Essential Plan on May 9, 2016.
- 4) On May 31, 2016, NYSOH received documentation of your income.

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- 5) You were found no longer eligible for the Essential Plan effective June 30, 2016 because you were over income for that program.
- 6) On October 3, 2016, you submitted an updated application for health insurance.
- 7) You were found conditionally eligible for the Essential Plan effective November 1, 2016.
- 8) On October 5, 2016, you reenrolled into an Essential Plan.
- 9) You filed your appeal on October 13, 2016 to dispute your ineligibility for the Essential Plan as of July 1, 2016.
- 10) There are no complaints filed prior to October 13, 2016 that indicate that you disputed your ineligibility for the Essential Plan as of July 1, 2016.
- 11) You testified you wanted your enrollment in an Essential Plan to begin on July 1, 2016, because you believe you should have been found eligible as of that date, and not disenrolled from your Essential Plan effective June 30, 2016.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

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)).

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Timely Appeals

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(1)).

Legal Analysis

The first issue is whether you provided a timely request for appeal of your disenrollment from the Essential Plan because you were no longer eligible to remain enrolled in that program, effective July 1, 2016.

On May 9, 2016, NYSOH received your application for health insurance. Based on that application you were found conditionally eligible for the Essential Plan and you were enrolled in a plan effective June 1, 2016. Your eligibility and enrollment was contingent on you providing documentation of your income.

On May 31, 2016, NYSOH received documentation of your income and your account was updated accordingly. You were subsequently determined eligible to receive advance premium tax credits of up to \$221.00 per month as well as cost-sharing reductions effective July 1, 2016. A notice to this effect was issued to you on June 2, 2016.

On June 4, 2016, a disenrollment notice was issued terminating your coverage in the Essential Plan effective June 30, 2016.

On October 13, 2016, you requested an appeal of the termination of your Essential Plan as of June 30, 2016. Through the appeal, you were seeking a reinstatement of your Essential Plan as of July 1, 2016.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of your eligibility for Advance Premium Tax credits, and ineligibility for the Essential Plan, as addressed in the June 2, and June 4, 2016 notices, an appeal should have been filed by August 9, 2016. There are no complaints filed prior to October 13, 2016 that indicate that you disputed your ineligibility for the Essential Plan as of July 1, 2016.

According to the credible evidence in the record, you did not contact NYSOH until October 13, 2016 to file a formal appeal. This date is well beyond 60 days from the June 2, and June 4, 2016 notices.

Therefore, there has been no valid timely appeal of the June 2, 2016, eligibility determination notice, and June 4, 2016, disenrollment notice and your appeal on the issue of your eligibility for advance premium tax credits and ineligibility for the Essential plan effective July 1, 2016 as stated in those notices is DISMISSED.

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

You testified, and the record indicates, that you submitted your NYSOH application on October 3, 2016, and enrolled in the Essential Plan on October 5, 2016. As a result, you were found eligible for and enrolled in the Essential Plan as of November 1, 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 October 5, 2016, you selected an Essential Plan, so your enrollment properly took effect on the first day of the first month following October; that is, on November 1, 2016.

Therefore, the October 6, 2016 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective November 1, 2016, is correct and must be AFFIRMED.

Decision

Your appeal of the June 2, 2016 eligibility determination notice, and June 4, 2016 disenrollment notice is DISMISSED.

The October 6, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: February 7, 2017

How this Decision Affects Your Eligibility

Your Essential Plan started November 1, 2016.

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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 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 June 2, 2016, eligibility determination notice and June 4, 2016 disenrollment notice is **DISMISSED**.

The October 6, 2016, enrollment confirmation notice is **AFFIRMED**.

Your Essential Plan started November 1, 2016.

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Legal Authority

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

A Copy of this Decision Has Been Provided To:

