



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

## Notice of Decision

Decision Date: April 18, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012771

[REDACTED]

Dear [REDACTED]

On February 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 23, 2016 cancellation notice and October 15, 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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## Decision

Decision Date: April 18, 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:

Did NY State of Health properly terminate your Essential Plan coverage effective August 1, 2016?

Did NY State of Health properly determine your re-enrollment in an Essential Plan was not effective until November 1, 2016?

## Procedural History

You enrolled in an Essential Plan through NY State of Health (NYSOH), effective January 1, 2016.

On July 5, 2016, without prior notice and after a systematic review of your case, NYSOH issued a notice stating you did not qualify to enroll in health coverage through NYSOH because sources indicated you had other health insurance or Medicare, also called third-party health insurance (TPHI). The notice indicated your eligibility to enroll in health coverage through NYSOH would end August 1, 2016.

Also on July 5, 2016, NYSOH issued a disenrollment notice stating your Essential Plan coverage was terminated, effective July 31, 2016.

On July 16, 2016, NYSOH issued a notice of eligibility determination, based on a July 15, 2016 systematic redetermination, stating you were eligible to enroll in the Essential Plan, effective August 1, 2016.

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On July 29, 2016, NYSOH issued a notice of enrollment stating you were enrolled in the same Essential Plan, effective August 1, 2016.

On August 23, 2016, NYSOH issued a notice stating your Essential Plan was cancelled, effective August 1, 2016, because a premium payment had not been received by your health plan.

On October 15, 2016, NYSOH issued an enrollment confirmation notice, based on your October 14, 2016 plan selection, stating you were enrolled in an Essential Plan, effective November 1, 2016.

On October 24, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential insofar as it did not begin August 1, 2016.

On February 10, 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 enrolled in an Essential Plan with coverage effective January 1, 2016.
- 2) Your account indicates your enrollment was deleted following a systematic eligibility redetermination on July 4, 2016, because NYSOH detected you were enrolled in TPHI. Such systematic redeterminations are not the result of a person reviewing your account and causing a new eligibility determination to be issued; instead, they are the result of automatic actions taken by NYSOH's computer system.
- 3) Because of this systematic redetermination, your coverage through this plan ended July 31, 2016.
- 4) You testified you received this notice and attempted to access your account; however, you discovered your account had been previously set up by a navigator and you were unable to gain access yourself.
- 5) NYSOH's records confirm that you had two accounts with NYSOH. Account [REDACTED] was rendered inactive by NYSOH on October 27, 2016, after the cancellation of your coverage occurred. Account [REDACTED] is currently active.

- 6) Your eligibility was redetermined by the system on July 15, 2016. No TPHI was detected at that time, and you were determined eligible to enroll in the Essential Plan, effective August 1, 2016.
- 7) You were reenrolled into the same Essential Plan on July 29, 2016 by the system with an August 1, 2016 coverage start date. There was no gap in coverage.
- 8) On August 22, 2016, your coverage was terminated by your health plan, effective August 1, 2016, because the health plan had purportedly not received a premium payment.
- 9) You testified you did not make the August 2016 premium payment because your health plan advised you that you did not have active coverage and directed you not to make the payment.
- 10) You testified you contacted NYSOH in September 2016 to reenroll into coverage, but you were advised that you were already enrolled.
- 11) You testified you contacted NYSOH again in late September or early October 2016 and you were advised you could not be reenrolled until you submitted a letter from your prior insurance carrier evidencing the coverage end date.
- 12) On October 19, 2016, a copy of a letter dated October 18, 2016 was uploaded to your NYSOH account indicating the end date of your prior insurance coverage was January 1, 2016.
- 13) Your account confirms you selected a new plan for enrollment on October 14, 2015 for a November 1, 2016 start date.
- 14) You testified, and your account confirms, you were without health coverage for August, September, and October 2016.
- 15) You are seeking to have your coverage back dated to August 1, 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 to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax

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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 NYSOH 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)).

### 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)).

### Grace Period

An individual has until the tenth of the month to pay the first premium for Essential Plan coverage; once the first premium for the Essential Plan has been paid, she is entitled to a 30-day grace period to pay subsequent premiums before coverage will be cancelled (see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>, pp. 32 - 33).

## **Legal Analysis**

The first issue is whether NYSOH properly terminated your Essential Plan coverage effective August 1, 2016.

Your account confirms you enrolled into an Essential Plan, effective January 1, 2016. This enrollment was systematically deleted on July 4, 2016, because NYSOH detected you were enrolled in TPHI. However, NYSOH systematically redetermined your eligibility on July 15, 2016 and confirmed you were *not* enrolled in TPHI and your Essential Plan enrollment was reinstated as of August 1, 2016.

As result, you did not experience a gap in your insurance coverage at that time. However, the evidence establishes the July 4, 2016 cancellation of your Essential Plan coverage by NYSOH was improper, as there was no basis for such a cancellation, as evidenced by the lack of any eligibility determination, the automatic reinstatement of your coverage, and the lack of any proof of such coverage in your account.

It is noted you later submitted documentation establishing your prior TPHI coverage had ended effective January 1, 2016.

On August 22, 2016, your Essential Plan coverage was terminated a second time, effective August 1, 2016, because the health plan had purportedly not received a premium payment. You testified you did not make the August 2016 premium payment because your health plan advised you that you did not have active coverage and directed you not to make the payment. Your account confirms your health plan initiated a coverage termination on August 22, 2016, effective August 1, 2016, because the plan had not received your premium payment.

It is noted that at all times relevant to this issue, you had two active NYSOH accounts, which should not have been permitted by NYSOH. The evidence establishes that account [REDACTED] was not rendered inactive by NYSOH until October 27, 2016.

The evidence establishes NYSOH allowed you to have two distinct accounts active simultaneously. The first cancellation of your Essential Plan enrollment on July 4, 2016, an error as acknowledged by NYSOH, was apparently the result of the system picking up what it perceived to be coverage in the second account.

You testified credibly that your health plan advised you not to pay your August 2016 premium because your coverage was not active; this was undoubtedly the result of NYSOH's computer system cancelling your coverage effective July 31, 2016 and communicating this information to your plan.

Moreover, once the first premium for the Essential Plan has been paid, enrollees are entitled to a 30-day grace period to pay subsequent premiums before coverage will be cancelled. Since you have been enrolled in the Essential Plan since January 1, 2016, the premium for August should not have been considered the premium for the "first" month of payment. Accordingly, you were entitled to a 30-day grace period, beginning August 1, 2016, in which to make your August 2016 premium payment. The evidence establishes your coverage was terminated prior to the expiration of this grace period.

Although in general, the Appeals Unit of NYSOH does not have the authority to review termination of enrollment due to non-payment of premiums, in the present case it is clear the problem was not a failure to pay premiums, but the improper

cancellation of your coverage effective July 31, 2016 based on erroneous information, the failure of NYSOH and your plan to timely address the ramifications of the improper termination, and NYSOH's failure to ensure that you were given the benefit of the 30-day grace period.

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

You testified you contacted NYSOH in September 2016 to reenroll into coverage, but you but were advised that you were already enrolled. This was presumably due to a delay in communication between your health plan and NYSOH regarding the cancellation of the new reenrollment in the Essential Plan because of a purported failure to pay premiums, since the plan had not received a binder payment for the "new" enrollment.

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.

You did not, or were unable to, select a plan for enrollment until October 14, 2016. Since the plan was selected prior to the fifteenth day of the month, it properly went into effect on the first day of the following month; that is November 1, 2016.

However, the Appeals Unit finds that the gap in your coverage in your Essential Plan was caused solely by the cascade of errors that began when NYSOH improperly allowed two duplicate accounts to remain active and failed to ensure that you were given the benefit of the 30-day grace period. The notice issued on August 22, 2016 fell within that 30-day period; therefore, the cancellation of your coverage was improper, even if you failed to pay the premium for August 2016.

## **Decision**

The August 23, 2016 cancellation notice is **RESCINDED**, and the matter is **RETURNED** to NYSOH to reinstate your coverage effective August 1, 2016.

**Effective Date of this Decision: April 18, 2017**



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

Your case is being returned to NYSOH to reinstate your coverage; however, please be aware that you may owe premiums as a result of this change.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to the Federal Marketplace 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 Federal Marketplace. 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 have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:  
Health Insurance Marketplace  
Attn: Appeals  
465 Industrial Blvd.  
London, KY 40750-0061
- By fax: 1-877-369-0129

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 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 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**

The August 23, 2016 cancellation notice is **RESCINDED**, and the matter is **RETURNED** to NYSOH to reinstate your coverage effective August 1, 2016.

Your case is being **RETURNED** to NYSOH to reinstate your coverage; however, please be aware that you may owe premiums as a result of this change.

## **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**



## Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

### Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

### 中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

### Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

### 中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

### Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

### 한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

### Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

### العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

### বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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## **Français (French)**

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

## **हिंदी (Hindi)**

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

## **日本語 (Japanese)**

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

## **नेपाली (Nepali)**

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

## **Polski (Polish)**

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

## **Twi (Twi)**

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&etumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

## **(Urdu) اردو**

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

## **Tiếng Việt (Vietnamese)**

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

## **אידיש (Yiddish)**

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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