



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

## Notice of Decision

Decision Date: February 02, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012784

[REDACTED]

Dear [REDACTED],

On January 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 21, 2016 disenrollment notice and October 25, 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

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).

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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## Decision

Decision Date: February 02, 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 enrollment in your qualified health plan effective September 30, 2016, because of non-payment of premiums?

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

## Procedural History

On November 7, 2015, NY State of Health (NYSOH) issued a notice, based on your October 31, 2015 automatic renewal, stating that you were enrolled in the Essential Plan, effective January 1, 2016.

On December 5, 2015, NYSOH issued an enrollment confirmation notice, based on your November 30, 2015 plan selection, stating that you were enrolled in the Essential Plan with a premium of \$46.45 per month, and that your plan would January 1, 2016.

On October 21, 2016, NYSOH issued a disenrollment notice stating your Essential Plan coverage was terminated, effective September 30, 2016, because a premium payment had not been received by the health plan. That notice directed you to contact your plan directly if you believed you made your premium payment(s) within the required timeframe.

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On October 25, 2016, NYSOH received your updated application for health insurance. That day, a preliminary eligibility redetermination was made finding you eligible to enroll in the Essential Plan with a premium on \$46.56 per month, effective December 1, 2016.

Also on October 25, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal of that eligibility redetermination insofar as your Essential Plan started on December 1, 2016, and not October 1, 2016.

On October 26, 2016, NYSOH issued a notice of enrollment, based on your plan selection on October 25, 2016, stating that you were enrolled in an Essential Plan with a premium of \$46.45, and that your plan would start December 1, 2016.

On January 27, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open for 15 days for you to submit proof of an urgent medical need. You submitted a letter from your doctor on January 27, 2017, which was made part of the record as Appellant's Exhibit A. The record was closed on that day.

## **Findings of Fact**

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

- 1) According to your NYSOH account, you were automatically enrolled in your Essential Plan with a premium of \$46.45, effective January 1, 2016.
- 2) On December 5, 2015, NYSOH issued an enrollment confirmation notice, that stated you must pay your monthly premium to start your coverage as of January 1, 2016 and to keep it thereafter.
- 3) You testified that you failed to pay your September 2016 and October 2016 premiums because you were juggling a lot of personal and health issues at that time.
- 4) On October 21, 2016, NYSOH issued a disenrollment notice stating that your coverage in your Essential Plan was terminated effective September 30, 2016 because of non-payment of premiums.
- 5) You testified that you called the health plan and they denied reinstatement of your coverage and advised you to contact NYSOH.
- 6) On January 27, 2017, you submitted a letter from your doctor stating that you had an urgent medical need and that you needed immediate testing so as not to "delay a diagnosis" (see Appellant's Exhibit A).

- 7) You testified that you wanted your enrollment in an Essential Plan to begin on October 1, 2016 because you had testing done in October 2016 and November 2016 and you were not aware that you did not have coverage.

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 enrollment in your Essential Plan effective September 30, 2016 because of non-payment of premiums.

The record indicates you were enrolled in an Essential Plan with a monthly premium of \$46.45, effective January 1, 2016, as stated in the December 5, 2015 enrollment confirmation notice issued by NYSOH. That notice also stated you must pay your monthly premium to start and keep your coverage.

You testified that you failed to pay your September 2016 and October 2016 premiums because you were juggling a lot of personal and health issues at that time. Further, you testified that, when you contacted your health plan, they denied you reinstatement in your Essential Plan and advised you to contact NYSOH.

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, and (4) a failure by the Exchange to provide timely notice of an eligibility determination.

Since the Appeals Unit is not given the authority to review start date issues due to non-payment of premiums, we cannot reach the merits as to whether you were properly terminated from your Essential Plan for non-payment of premiums. Therefore, your appeal of your Essential Plan termination date of September 30, 2016, as stated in the October 21, 2016 disenrollment notice, is DISMISSED as a non-appealable issue.

Therefore, the sole remaining issue is whether NYSOH properly determined that your enrollment in the Essential Plan was effective December 1, 2016.

According to your NYSOH account and your testimony, you updated your NYSOH application on October 25, 2016. As a result, you were found eligible for the Essential Plan as of December 1, 2016. Also on October 25, 2016, you selected and enrolled into an Essential Plan, effective December 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 25, 2016, you completed your application for health insurance and selected an Essential Plan, so your enrollment properly took effect on the first day of the second month following October 2016; that is, on December 1, 2016.

Therefore, the October 25, 2016 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective December 1, 2016, is correct and must be AFFIRMED.

## **Decision**

Your appeal of your Essential Plan termination date of September 30, 2016, as stated in the October 21, 2016 disenrollment notice, is DISMISSED as a non-appealable issue.

The October 25, 2016 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** February 02, 2017

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

The Appeals Unit does not have the authority to review start date issues due to non-payment of premiums and, therefore, cannot reach the merits as to whether you were properly terminated from your Essential Plan for non-payment of premiums as of September 30, 2016.

This decision does not change your eligibility.

The effective date of your re-enrollment in an Essential Plan is December 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)).

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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 your Essential Plan termination date of September 30, 2016, as stated in the October 21, 2016 disenrollment notice, is **DISMISSED** as a non-appealable issue.

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

The Appeals Unit does not have the authority to review start date issues due to non-payment of premiums and, therefore, cannot reach the merits as to whether you were properly terminated from your Essential Plan for non-payment of premiums as of September 30, 2016.

This decision does not change your eligibility.

The effective date of your re-enrollment in an Essential Plan is December 1, 2016.

## **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:**

