



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

## Notice of Decision

Decision Date: March 08, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012980

[REDACTED]

Dear [REDACTED],

On February 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 2016 disenrollment and October 20, 2016 enrollment notices.

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]  
Appeal Identification Number: AP000000012980



## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly disenroll you and your spouse from the Essential Plan effective October 31, 2016?

Did NYSOH re-enroll you and your spouse in the Essential Plan effective December 1, 2016?

## Procedural History

On December 16, 2015, NYSOH received your application for financial assistance.

On December 18, 2015, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time effective as of January 1, 2016. The notice directed you to submit additional income documentation to confirm your and your spouse's eligibility before March 15, 2016.

Also on December 20, 2015, NYSOH issued an enrollment notice confirming that as of December 19, 2016, you and your spouse were enrolled in an Essential Plan with an enrollment start date of January 1, 2016. The notice directed you to submit additional income documentation to confirm your eligibility before March 15, 2016.

On September 17, 2016, your NYSOH account was updated.

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On September 18, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a qualified health plan at full cost through NYSOH effective November 1, 2016.

On September 18, 2016, NYSOH issued a disenrollment notice stating that your and your spouse's Essential Plan would terminate October 31, 2016, because you were no longer eligible to remain enrolled in your current health insurance.

On October 18, 2016, your NYSOH account was updated.

On October 19, 2016, NYSOH issued an eligibility determination notice that you and your spouse were eligible to enroll in the Essential Plan effective December 1, 2016.

On October 20, 2016, NYSOH issued an enrollment notice confirming that as of October 19, 2016, you and your spouse were enrolled in an Essential Plan with an enrollment start date of December 1, 2016.

On October 31, 2016, you contacted NYSOH's Account Review Unit and requested an appeal insofar as you and your spouse's disenrollment from your Essential Plan effective October 31, 2016.

On February 13, 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) You testified, and the record reflects, that you receive all of your notices from NYSOH via regular mail.
- 2) You testified that you did not receive any notices stating that your and your spouse's eligibility was only conditional and that you needed to provide documentation of your income.
- 3) According to NYSOH, you were enrolled in an Essential Plan with an enrollment start date of January 1, 2016.
- 4) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 5) You testified that you did not receive a notice from NYSOH stating that your and your spouse's Essential Plan would terminate effective October 31, 2016.

- 6) You testified that your broker contacted you on October 18, 2016 and notified you that your and your spouse's enrollment had been terminated.
- 7) According to your NYSOH account, you and your spouse were re-enrolled in an Essential Plan on October 19, 2016, with a plan enrollment start date of December 1, 2016.
- 8) You testified that you are seeking reinstatement of your and your spouse's Essential Plan effective November 1, 2016.

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

## **Applicable Law and Regulations**

### Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

### Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow the NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i)). If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f); 42 CFR §600.345 (a)) See also New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence (45 CFR §155.315(f)(2)). If NYSOH remains unable to verify the

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information required to determine the applicant's eligibility after the 90 day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

### 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 is whether NYSOH properly disenrolled you and your spouse from the Essential Plan effective October 31, 2016.

You and your spouse initially enrolled in an Essential Plan with an enrollment start date of January 1, 2016.

NYSOH then issued notices on December 18, 2016 and December 20, 2015, stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time. You were asked to provide income documentation by March 15, 2016, in order to confirm the information you had provided.

When NYSOH cannot verify information that is required to make an eligibility determination, it must notify the applicant and allow the applicant time to submit satisfactory documentation. NYSOH had provided you 90 days to confirm your income.

You testified that you did not receive the any notice informing you of the need to provide proof of your income. The record indicates that the notice was issued to the mailing address listed in your NYSOH account, and that there is nothing in your account which would suggest that any of the notices were returned as undeliverable.

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Therefore, it is determined that NYSOH properly notified you of the need to provide income documentation or risk losing the financial assistance you were currently receiving. Since no documentation was received by NYSOH within 90 days, you and your spouse were properly disenrolled from your Essential Plan effective October 31, 2016.

Therefore, the September 18, 2016, disenrollment notice is AFFIRMED.

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

The record reflects that you and your spouse were re-enrolled in an Essential on October 19, 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.

Since you and your spouse re-enrolled in the Essential Plan on October 19, 2016, it properly took effect on the first day of the second month following October 19, 2016; that is, on December 1, 2016.

Therefore, the October 20, 2016, enrollment notice confirming that you and your spouse enrolled in an Essential Plan with an enrollment start date of December 1, 2016 is AFFIRMED.

## **Decision**

The September 18, 2016, disenrollment notice is AFFIRMED.

The October 20, enrollment notice is AFFIRMED.

**Effective Date of this Decision:** March 08, 2017

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

You and your spouse were properly disenrolled from your Essential Plan effective October 31, 2016.

You and your spouse were properly re-enrolled in the Essential Plan effective 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)).

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 September 18, 2016, disenrollment notice is AFFIRMED.

The October 20, enrollment notice is AFFIRMED.

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You and your spouse were properly disenrolled from your Essential Plan effective October 31, 2016.

You and your spouse were properly re-enrolled in the Essential Plan effective December 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:**

