



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

Notice of Decision

Decision Date: April 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013067

[REDACTED]

Dear [REDACTED],

On April 14, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 4, 2016 plan 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: April 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013067



Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

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

Procedural History

According to your NY State of Health (NYOSH) account, your enrollment in a Medicaid Managed Care plan was due to end October 31, 2016.

On September 3, 2016, NYSOH issued a renewal notice that informed you they could not decide whether you qualified for financial assistance in the upcoming policy year. The notice instructed you to update your NYSOH between September 16, 2016 and October 15, 2016 and, if you did not, you might lose the coverage you currently had.

On September 21, 2016, you updated your NYSOH account.

On September 22, 2016, NYSOH issued a letter informing you that additional information was needed by October 6, 2016 in the form of proof of income to confirm your eligibility.

Also on September 22, 2016, NYSOH issued a disenrollment notice stating that your Medicaid Managed Care coverage was to end October 31, 2016.

On September 30, 2016, NYSOH verified and validated your proof of income.

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On October 8, 2016, NYSOH issued an eligibility determination notice, based on your September 30, 2016 completed application, stating that you were eligible for the Essential Plan, effective November 1, 2016.

On November 3, 2016, you selected an Essential Plan with a December 1, 2016 enrollment start date.

Also on November 3, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as your enrollment in the Essential Plan you selected was to begin December 1, 2016, and not November 1, 2016.

On November 4, 2016, NYSOH issued an enrollment notice confirming your Essential Plan selection with a December 1, 2016 enrollment start date and a \$20.00 monthly premium.

On April 14, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open for the Hearing Officer to listen to NYSOH's Call Center recordings from September 30, 2016 and November 3, 2016.

The Hearing Officer listened to the only available recording from November 3, 2016, after which the record was closed.

Findings of Fact

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

- 1) On September 21, 2016, you uploaded two bi-weekly paystubs dated August 26, 2016 and September 9, 2016 to your NYOSH account.
- 2) You testified that you spoke with a NYSOH representative on September 30, 2016, who assisted you in updating your NYSOH account.
- 3) You further testified the NYSOH representative told you that you were eligible for the Essential Plan and were "all set" for November 1, 2016
- 4) You testified that you thought this meant you did not have to do anything else and that, when you asked the NYSOH representative, she told you nothing else needed to be done.
- 5) Your NYOSH account shows that you receive your notices from NYOSH by electronic mail.

- 6) There was no recording available to listen to for the September 30, 2016 telephone conversation you had with a NYSOH representative.
- 7) NYOSH Appeals Unit reviewed the recording of the telephone call you made to NYOSH on November 3, 2016 and determined that:
 - a. You stated that you were calling from the hospital after being told that you had no insurance coverage. You told the NYOSH representative that you thought you were all set with coverage after speaking with a NYSOH representative on September 30, 2016.
 - b. The NYOSH representative confirmed that you received all your notices from NYOSH by electronic mail.
 - c. The NYOSH representative asked you if you received the October 8, 2016 eligibility determination notice stating that you were eligible for the Essential Plan effective November 1, 2016 and that you needed to pick a plan to begin your insurance coverage. You stated that you had not received the eligibility determination notice and if you had you would have picked a plan that day.
 - d. The NYSOH representative stated that she wanted to make sure you were enrolled in an Essential Plan going forward, and she stated that it looked like you had chosen “Fidelis Care, Health Only” for your Essential Plan when you called in before. You confirmed that was the correct plan you wanted to be enrolled in.
 - e. The NYOSH representative selected and confirmed your enrollment into an Essential Plan with Fidelis Care with a start date of December 1, 2016.
- 8) You testified you are seeking to have your Essential Plan coverage backdated to November 1, 2016, to fill the gap in coverage and to cover the cost of a medical procedure you had that month.
- 9) You testified that, had you known you were without health insurance coverage in November 2016, you would not have had the medical procedure performed because you cannot afford to pay \$2,500.00 out of pocket.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability

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programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(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 issue under review is whether NYSOH properly determined that your enrollment in the Essential Plan was effective December 1, 2016.

On September 3, 2016, NYOSH issued a renewal notice that informed you that they could not decide whether you qualified for financial assistance in the upcoming policy year. The notice instructed you to update your NYOSH account between September 16, 2016 and October 15, 2016 and, if you did not, that you might lose the coverage you currently had.

You updated your NYOSH account on September 21, 2016. At that time, NYOSH was unable to make an eligibility determination because additional information was needed in the form of proof of income to confirm your eligibility. You then uploaded two bi-weekly paystubs dated August 26, 2016 and September 9, 2016 to your NYOSH account on September 21, 2016.

Those documents were reviewed and validated on September 30, 2016. A NYSOH representative updated the income information in your NYOSH account, and a completed application was submitted that same day.

On October 8, 2016, NYOSH issued an eligibility determination notice, based on your September 30, 2016 application, stating that you were eligible for the Essential Plan, effective November 1, 2016. This notice further stated that your coverage would not begin until you selected a plan for enrollment. The record reflects that you did not confirm your enrollment into an Essential Plan until November 3, 2016.

During the telephone conversation you had with a NYSOH representative on November 3, 2016, you stated that you had not received the eligibility determination notice dated October 8, 2016 telling you to pick a plan for enrollment and that, if you had, you would have enrolled in a plan that day.

The record reflects that you elected to receive alerts regarding notices from your NYSOH account electronically. There is no evidence in your account showing that any email alert was sent to you regarding your eligibility determination notice, that such electronic notice had failed, or that the notice was later sent to you by regular mail.

Therefore, it is concluded that NYOSH did not give you the required notice that you were determined eligible for an Essential Plan, and that for your coverage to begin you needed to select a plan for enrollment.

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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.

Based on the credible evidence of record, it is reasonable to infer that had you received the October 8, 2016 eligibility determination notice informing you of your eligibility for the Essential Plan and directing you to select a plan for enrollment, you would have selected an Essential Plan for enrollment that day. Had you known to select an Essential Plan on October 8, 2016 and been able to do so, your Essential Plan would have taken effect on the first day following October 2016; that is, November 1, 2016.

Therefore, the November 4, 2016 enrollment confirmation notice stating that your enrollment in your Essential Plan was effective December 1, 2016, is MODIFIED to state that your enrollment in your Essential Plan was effective November 1, 2016.

Your case is RETURNED to NYOSH to effectuate the changes to your account as noted above, and to notify you accordingly.

Decision

The November 4, 2016 plan enrollment notice is MODIFIED to state that your coverage in your Essential Plan was effective November 1, 2016.

Your case is RETURNED to NYOSH to effectuate the changes to your account as noted above, and to notify you accordingly.

Effective Date of this Decision: April 24, 2017

How this Decision Affects Your Eligibility

The effective date of your Essential Plan is November 1, 2016.

Your case is being sent back to NYSOH to change the start date in your Essential Plan from December 1, 2016 to November 1, 2016. NYSOH will notify you once this change has been completed.

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).

It is your responsibility to pay the November 2016 monthly premium directly to the health plan for coverage to start as of November 1, 2016.

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 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

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- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The November 4, 2016 plan enrollment notice is MODIFIED to state that your coverage in your Essential Plan was effective November 1, 2016.

Your case is RETURNED to NYOSH to effectuate the changes to your account as noted above, and to notify you accordingly.

The effective date of your Essential Plan is November 1, 2016.

Your case is being sent back to NYSOH to change the start date in your Essential Plan from December 1, 2016 to November 1, 2016. NYSOH will notify you once this change has been completed.

It is your responsibility to pay the November 2016 monthly premium directly to the health plan for coverage to start as of 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:



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 bεtumi ama wo obi a okyerε 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.

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).