



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

Notice of Decision

Decision Date: May 12, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013204



Dear [REDACTED],

On May 8, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 17, 2016 disenrollment notice and the November 11, 2016 eligibility determination and enrollment confirmation 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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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:

Was your appeal of NY State of Health's (NYSOH) June 17, 2016 disenrollment notice timely?

Did NYSOH properly determine your eligibility for and enrollment in your Essential Plan was effective no earlier than November 1, 2016?

Procedural History

On December 18, 2015, NYSOH issued an eligibility determination notice stating you were eligible to enroll in the Essential Plan, effective January 1, 2016. You subsequently enrolled in an Essential Plan.

On May 3, 2016, NYSOH issued a notice stating it was time to renew your health insurance for the upcoming coverage year. The notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether you qualified for financial help paying for your health coverage. The notice directed you to update your account by June 15, 2016 or you might lose the financial assistance you were currently receiving.

No updates were received by June 15, 2016 and NYSOH redetermined your eligibility for financial assistance with health insurance.

On June 17, 2016, NYSOH issued an eligibility determination notice stating you were newly eligible to purchase a qualified health plan at full cost through

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NYSOH, effective July 1, 2016. The notice stated you were not eligible for financial assistance because you had not responded to the renewal notice.

Also on June 17, 2016, NYSOH issued a disenrollment notice stating your enrollment in your Essential Plan was terminated, effective June 30, 2016.

On November 10, 2016, NYSOH received your updated application for health insurance. That day, a preliminary eligibility determination was prepared stating you were eligible for the Essential Plan and you had selected a plan for enrollment.

Also on November 10, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your Essential Plan, insofar as you were not covered for the months of July, August, September, and October 2016.

On November 11, 2016, NYSOH issued a notice of eligibility determination, stating you were eligible to enroll in the Essential Plan, effective November 1, 2016.

Also on November 11, 2016, NYSOH issued an enrollment notice, based on your November 10, 2016 plan selection, confirming your enrollment in your Essential Plan, with a coverage start date of November 1, 2016.

On May 8, 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 were determined eligible for the Essential Plan on December 18, 2016, with an effective date of January 1, 2016.
- 2) You testified, and your account confirms, that you receive your notices from NYSOH by regular mail.
- 3) You testified that you did not receive any notices in the mail telling you to update your application to renew your Essential Plan eligibility.
- 4) You confirmed the mailing address listed on the renewal notice issued by NYSOH on May 3, 2016 was correct.
- 5) No notices sent to you at the mailing address listed on your NYSOH account have been returned to NYSOH as undeliverable.

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- 6) Your Essential Plan coverage was terminated, effective June 30, 2016, as stated in the disenrollment notice issued by NYSOH on June 17, 2016. You confirmed the mailing address listed on the June 17, 2016 eligibility determination and disenrollment notices were correct.
- 7) You testified that you did not know you needed to update your account until you were advised by your medical provider that your coverage was not active. You testified you are not sure of the date this occurred.
- 8) Your account confirms NYSOH received your updated application for health insurance on November 10, 2016.
- 9) You reenrolled into an Essential Plan on November 10, 2016. Your coverage through this plan became effective on November 1, 2016.
- 10) You testified that you are seeking to have your coverage through the Essential Plan backdated to July 1, 2016, to avoid a gap in coverage because you are being assessed a tax penalty by the IRS for being uninsured in 2016.
- 11) You testified that NYSOH should have sent multiple notices indicating your coverage was being terminated prior to ending your coverage.
- 12) The appeal in this matter was filed on November 10, 2016.

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

Applicable Law and Regulations

Valid Appeal Requests

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 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; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505, 45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within 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)).

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Essential Plan - Effective Date of Coverage

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 your appeal of NYSOH's June 17, 2016 disenrollment notice was timely.

On May 3, 2016, NYSOH issued a notice stating that based on federal and state data sources, NYSOH could not determine whether you qualified for financial assistance paying for your health coverage. The notice directed you to update your account by June 15, 2016 or you might lose the financial assistance you were currently receiving.

According to your account, no updates were made by the deadline. As a result, on June 17, 2016, NYSOH issued an eligibility determination notice indicating you no longer qualified for financial assistance paying for your health coverage because you failed to respond to the renewal notice. Also on June 17, 2016, NYSOH issued a disenrollment notice stating your enrollment in your Essential Plan was terminated, effective June 30, 2016.

You testified that you did not receive the May 3, 2016 renewal notice and argue that you should therefore not have been disenrolled from your Essential Plan on June 30, 2016 for failing to respond to the renewal notice. However, pursuant to the above cited regulations, for an appeal to be deemed valid, individual applicants and enrollees must request a hearing within 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 June 30, 2016 disenrollment from your Essential Plan, as indicated in the June 17, 2016 disenrollment notice, an appeal should have been filed by August 16, 2016.

According to your account, your appeal was not filed until November 10, 2016 which is well beyond 60 days from the June 17, 2016 disenrollment notice. Moreover, there is no evidence you contacted NYSOH in any way prior to November 10, 2016 to contest your June 30, 2016 disenrollment.

Therefore, there has been no timely appeal of the June 17, 2016 disenrollment notice, and your appeal on the issue of your June 30, 2016 disenrollment from your Essential Plan is **DISMISSED**.

The second issue under review is whether NYSOH properly determined your eligibility for and enrollment in your Essential Plan was effective no earlier than November 1, 2016.

You were originally found eligible for the Essential Plan effective January 1, 2016.

As discussed above you were appropriately disenrolled from your Essential Plan, effective June 30, 2016, because you had not responded to the renewal notice issued by NYSOH on May 3, 2016. However, as discussed above, your June 30, 2016 disenrollment from your Essential Plan is not reviewable by the Appeals Unit of NYSOH because your appeal was untimely with regard to this determination.

According to your account, you updated your application for health insurance on November 10, 2016 and submitted a request to enroll in an Essential Plan the same day.

The date on which the 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 generally goes into effect on the first day of the following month. A plan that is selected after the fifteenth day of a month goes into effect on the first day of the second following month.

Because you selected your Essential Plan on November 10, 2016, your enrollment in an Essential Plan should have begun on the first day of the following month; that is, on December 1, 2016.

However, because there is no indication that either NYSOH or your plan objected to the earlier effective date of November 1, 2016, the Appeals Unit of NYSOH will not change the current effective date of your coverage.

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Decision

Your appeal of the June 17, 2016 disenrollment notice is untimely and is DISMISSED.

The November 11, 2016 eligibility determination and enrollment confirmation notices are AFFIRMED

Effective Date of this Decision: May 12, 2017

How this Decision Affects Your Eligibility

Your previous Essential Plan enrollment ended June 30, 2016.

The start date of your coverage through your Essential Plan will not 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 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 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 the June 17, 2016 disenrollment notice is untimely and is **DISMISSED**.

The November 11, 2016 eligibility determination and enrollment confirmation notices are **AFFIRMED**.

Your previous Essential Plan enrollment ended June 30, 2016.

The start date of your coverage through your Essential Plan will not 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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