



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

## Notice of Decision

Decision Date: May 19, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013584

[REDACTED]

Dear [REDACTED],

On May 10, 2017, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health's November 10, 2016 disenrollment notice and the November 18, 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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## Decision

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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:

Can the Appeals Units of NY State of Health (NYSOH) consider your appeal regarding the end of your Essential Plan coverage, effective October 31, 2016, due to nonpayment of premiums?

Did NY State of Health properly determine your reenrollment in an Essential Plan was not effective until January 1, 2017?

## Procedural History

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

On November 10, 2016, NYSOH issued a notice of disenrollment stating your Essential Plan coverage was terminated, effective October 31, 2016, because premium payment(s) had not been received by your health plan.

On November 17, 2016, NYSOH received your updated application.

On November 18, 2016, NYSOH issued an eligibility determination stating you were eligible to enroll in the Essential Plan, effective January 1, 2017.

Also on November 18, 2016, NYSOH issued an enrollment confirmation notice, based on your November 17, 2016 plan selection, stating you were enrolled in an Essential Plan with coverage effective January 1, 2017.

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On November 28, 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 November 1, 2016.

On May 10, 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 to allow you to submit supporting documents.

On May 11, 2017, NYSOH received the requested documentation and it was incorporated into the record as Appellant's Exhibit #1. The record closed thereafter.

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## **Findings of Fact**

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

- 1) You testified, and your account confirms, you, your spouse, and your oldest child enrolled in an Essential Plan with Vision and Dental coverage with a monthly premium cost of \$46.56, effective January 1, 2016.
- 2) Your spouse testified that the health plan billed you, your spouse, and your oldest child separately each month for the premium payments due.
- 3) Your spouse testified that he made three separate premium payments to the health plan each month for your, your spouse's, and your son's coverage.
- 4) Your spouse testified that he always paid the monthly premiums within the 30-day "grace period."
- 5) Your spouse testified he made the November premium payment for your coverage before the end of the grace period for that month; however, he was unsure of the exact date of the payment.
- 6) Your spouse testified he would submit proof that your November 2016 Essential Plan premium payment was timely made.
- 7) On May 11, 2017, NYSOH Appeals Unit received the following documentation:
  - a. Excerpt of your November 2016 bank statement showing a check in the amount of \$46.56 was cashed on November 14, 2016.
  - b. A copy of a check dated November 1, 2016 made out to Healthfirst in the amount of \$46.56 with a 15-digit number in the memo line.

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This number does not correlate to your NYSOH account number or your Marketplace ID number.

- 8) According to your account, your health plan initiated termination of your Essential Plan coverage on November 9, 2016.
- 9) Your Essential Plan coverage was terminated, effective October 31, 2016.
- 10) According to your account, you updated your account on November 17, 2016 and reenrolled into an Essential Plan the same day.
- 11) Your coverage through this plan became effective January 1, 2017.
- 12) According to your account you had a gap in health coverage for the months of November and December 2016.
- 13) Your spouse testified that your health plan credited the November payment to the premium due on your enrollment for January 2017.
- 14) You testified you are seeking to have your coverage back dated to November 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 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) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (4) 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

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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, the individual 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 the Appeals Unit of NYSOH can consider your appeal regarding the end of your Essential Plan coverage, effective October 31, 2016, due to nonpayment of premiums.

You enrolled in an Essential Plan with Vision and Dental coverage with a monthly premium cost of \$46.56, effective January 1, 2016. According to your account, your health plan initiated termination of your Essential Plan coverage on November 9, 2016 because premium payment(s) had not been received.

Pursuant to the regulations, 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) a failure by the Exchange to provide timely notice of an eligibility determination, and (4) a denial of a special enrollment period.

Because the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether your coverage was properly terminated for non-payment of premiums. Therefore, your appeal of the November 10, 2016 disenrollment notice is **DISMISSED** as a non-appealable issue.

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It is noted that given the evidence that your premium payment may have been paid within the allowable 30-day grace period, your case is referred to Plan Management to investigate whether your health plan properly initiated termination of your coverage due to non-payment of premium(s).

The second issue is whether NYSOH properly determined your re-enrollment in an Essential Plan was effective January 1, 2017.

Your account confirms you contacted NYSOH on November 17, 2016 to update your account and you reenrolled in an Essential Plan the same day.

Pursuant to the above cited regulations, 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 selected a plan for enrollment on November 17, 2016, after the fifteenth day of the month, your coverage properly became effective on the first day of the second month following November; that is, January 1, 2017.

Accordingly, the November 18, 2016 enrollment confirmation notice stating your coverage with your Essential Plan was effective January 1, 2017, was correct and is AFFIRMED.

## **Decision**

Your appeal of the November 10, 2016 disenrollment notice is DISMISSED as a non-appealable issue.

Your case is RETURNED to Plan Management to investigate whether your health plan properly initiated termination of your coverage due to non-payment of premium(s).

The November 18, 2016 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** May 19, 2017

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

This decision does not change your eligibility.

Your Essential Plan coverage ended October 31, 2016.

Your reenrollment in an Essential Plan was effective January 1, 2017.

Your case is referred to Plan Management to investigate whether your health plan properly initiated termination of your coverage due to non-payment of premium(s). If that is not successful, be aware you may have other sources for recourse such as the Department of Financial Services.

## **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 November 10, 2016 disenrollment notice is **DISMISSED** as a non-appealable issue.

The November 18, 2016 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your eligibility.

Your Essential Plan coverage ended October 31, 2016.

Your reenrollment in an Essential Plan was effective January 1, 2017.

Your case is **RETURNED** to Plan Management to investigate whether your health plan properly initiated termination of your coverage due to non-payment of premium(s). If that is not successful, be aware you may have other sources for recourse such as the Department of Financial Services.

## **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。我们可以为您免费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)

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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।

### **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&tumi 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.

### **שׂוּדִישׁ (Yiddish)**

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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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