



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

Notice of Decision

Decision Date: January 9, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014536

[REDACTED]

Dear [REDACTED],

On January 9, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 3, 2017 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).

This page intentionally left blank.



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

Decision

Decision Date: January 9, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014536

[REDACTED]

Issue

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

Did NY State of Health properly determine that you were disenrolled from your United Healthcare Community Essential Plan 2 as of November 30, 2016, enrolled in your Healthfirst Essential Plan 2 from December 1, 2016 through December 31, 2016, and thereafter re-enrolled in your Healthfirst Essential Plan 2 effective February 1, 2017?

Procedural History

According to your NY State of Health (NYSOH) account, you were enrolled in the Essential Plan from January 1, 2016 through December 1, 2016.

On October 21, 2016, NYSOH issued a notice informing you that it was time to renew your coverage for the upcoming policy year and, based on federal and state data sources, a decision about whether or not you qualified for financial help could not be made. You were instructed to update the information on your NYSOH to complete your renewal between November 16, 2016 and December 15, 2016, or the financial assistance you were getting might end.

On November 10, 2016, NYSOH issued an enrollment confirmation notice stating that, based on your November 9, 2016 Essential Plan selection, your coverage with Healthfirst would begin on December 1, 2016.

Also on November 10, 2016, NYSOH issued a disenrollment notice stating your request to end your Essential Plan 2 coverage with United Healthcare

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).

Community Plan (UHC Plan) was processed and you would no longer have coverage with that plan, effective November 30, 2016.

On December 19, 2016, NYSOH issued a notice of eligibility determination stating that you were newly eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2017. The reason stated was that, “[y]ou are eligible to purchase a qualified health plan because you do not qualify for Medicaid, Child Health Plus, the Essential Plan or to receive Advance Premium Tax Credits to help pay for the cost of your insurance. This is because you did not respond to the renewal notice and did not complete your renewal within the required timeframe. As a result, you no longer qualify to receive financial assistance to help pay for your health coverage.”

Also on December 19, 2016, NYSOH issued a disenrollment notice stating that your coverage in your Healthfirst Essential Plan 2 would end on December 31, 2016, because you were no longer eligible to be enrolled in that plan.

On January 3, 2017, NYSOH issued an eligibility redetermination notice stating that, based on your January 2, 2017 updated application, you were eligible to enroll in the Essential Plan with a \$0 (free) premium per month for a limited time, effective February 1, 2017. You were instructed by that notice to submit proof of your income by April 2, 2017 to confirm your eligibility for financial assistance.

Also on January 3, 2017, NYSOH issued an enrollment confirmation notice stating that, based on your plan selection on January 2, 2017, you were enrolled in an Essential Plan with Healthfirst, no premium, and an enrollment start date of February 1, 2016.


On January 3, 2017, you spoke to NYSOH’s Account Review Unit and appealed the start date of your enrollment in the Essential Plan insofar as it did not begin January 1, 2017.

On January 9, 2017, you had an expedited 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) Your objections to the veracity and reliability of the notices issued by NYSOH from November 10, 2016 through January 3, 2017 were noted for the record.

- 2) According to your NYSOH account, your Essential Plan was changed from United Healthcare Community Plan to Healthfirst on November 9, 2016, and was processed by NYSOH for a December 1, 2016 enrollment start date.
- 3) You testified that, on November 9, 2016, when you called NYSOH and updated your NYSOH account and selected an Essential Plan, you believed you were doing so for renewal as of January 1, 2017, and not to change plans as of December 1, 2016.
- 4) According to the Appeal Summary in the Evidence Packet prepared by NYSOH and uploaded to your NYSOH account, an entry dated 01/04/2017, states in relevant part that, “[r]eviewed appellant’s call to the Marketplace made on 11/09/2016 at 03:40 PM. During this phone call - Consumer called to renew insurance and change to Healthfirst. Consumer was not aware of his enrollment period nor did the CSS Representative warn him of it in order to consult with him on a callback for Nov 16th enrollment.”

- 5) You testified that this information was accurate and had you known you needed to access your NYSOH account again between November 16, 2016 and December 15, 2016, you would have done so and avoided a gap in health insurance coverage for the month of January 2017.
- 6) You testified that you only learned of being disenrolled from your Essential Plan when your pharmacy could not refill a prescription on January 2, 2017.
- 7) You are seeking to have your UnitedHealthcare Essential Plan 2 coverage restored for the month of December 2016 and your Healthfirst Essential Plan 2 coverage begin January 1, 2017, so that your health insurance coverage is properly restored and to eliminate the gap in coverage for January 2017.
- 8) You testified that your only source of household income you have for 2017 is monthly Social Security benefits in the amount of \$1,393.00. The Hearing Officer agreed to accept your award letter from Social Security Administration for 2017 for NYSOH to verify.

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

Applicable Law and Regulations

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)).

Essential Plan: Twelve months of coverage

New York State has elected to adopt the Medicaid policy regarding 12 months of continuous enrollment (42 CFR § 600.320(d); New York's Basic Health Plan Blueprint, pp. 8 and 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

This means that an individual may apply and enroll for coverage at any point in time throughout the year, including outside the open enrollment period and without needing a special enrollment period (NY Social Services Law § 369-gg(4)(d)).

New York State has also elected to redetermine Essential Plan enrollees every 12 months from the effective date of eligibility as long as enrollees are under age 65, not enrolled in minimum essential coverage and remain state residents. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12 month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, or failure to make the applicable premium payment. (42 CFR 600.340(f); NY Social Services Law § 369-gg(3) and (4)(d)). Enrollees are required to report changes in circumstances within 30 days, which NYSOH will assess and act upon accordingly (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>).

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).

Legal Analysis

The issue under review is whether NYSOH properly determined that your enrollment in your UHC Essential Plan 2 was effective February 1, 2017.

The record reflects you were eligible for the Essential Plan throughout 2016.

You testified, and the record indicates, that you updated your NYSOH application on November 9, 2016 in order to renew your eligibility for and enrollment in an Essential Plan, effective January 1, 2017. However, as a result of this update being made, your eligibility being redetermined, and your Essential Plan selection being made before November 16, 2016, you were found eligible for the Essential Plan as of December 1, 2016 and enrolled into the Healthfirst Essential Plan 2 as of that date; instead of upon renewal on January 1, 2017.

Ordinarily, 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 November 9, 2016, you selected an Essential Plan, so your enrollment would ordinarily take effect on the first day of the next month following November 2016; that is, on December 1, 2016.

New York State has elected to redetermine Essential Plan enrollees every 12 months from the effective date of eligibility as long as enrollees are under age 65, not enrolled in minimum essential coverage and remain state residents. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12 month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, or failure to make the applicable premium payment.

Generally, if none of the events noted above occur, the enrollee's or enrollees' coverage will continue until the end of the 12 month period from the effective date of the initial eligibility determination or from the effective date of renewal.

The record reflects that you were determined eligible for the Essential Plan, effective January 1, 2016, and were enrolled in Essential Plans as of that date through December 31, 2016, which afforded you twelve months of continuous coverage as required by law.

However, the record further reflects that when you changed plans on November 9, 2016, which was 7 days before the renewal period was to begin on November 16, 2016, you were not informed by the NYSOH representative who assisted you that you needed to access your NYSOH account again on or after November 16, 2016 for your eligibility for the upcoming policy year to be redetermined and your enrollment selection confirmed. In fact, you credibly testified that you believed you had met the renewal requirements when your NYSOH account was updated on November 9, 2016 with the assistance of that NYSOH representative. NYSOH records confirmed that during the recorded telephone conversation you had with that representative, no mention that you needed to access your NYSOH account in order to renew for 2017 was made. You further testified that had you known you were supposed to access your account again between November 16, 2016 and December 15, 2016 in order for your eligibility to be redetermined and your enrollment confirmed for the next 12 month policy period, you would have done so and avoided a gap in your coverage during the month of January 2017.

For these reasons, it is reasonable to conclude that NYSOH erred in not informing you, during the November 9, 2016 telephone conversation with a NYSOH representative, that you needed to call to renew between November 16, 2016 and December 15, 2016, for your eligibility to be redetermined and your enrollment confirmed for a January 1, 2017 start date.

Therefore, to bring the changes made to your NYSOH account in order, the following changes must occur:

The November 10, 2016 disenrollment notice stating that your health insurance coverage in your UHC Essential Plan 2 ended effective November 30, 2016 is **RESCINDED**.

The November 10, 2016 enrollment confirmation notice stating your coverage in the Healthfirst Essential Plan 2 is effective December 1, 2016 is **RESCINDED**.

Your case is **RETURNED** to NYSOH to facilitate your re-enrollment in your UHC Essential Plan 2, effective December 1, 2016 through December 31, 2016.

The December 19, 2016 eligibility redetermination and disenrollment notices are **RESCINDED**.

The January 3, 2017 eligibility redetermination and enrollment notices are **MODIFIED** to state respectively that you were eligible to enroll in the Essential Plan with no monthly premium as of January 1, 2017, and were enrolled in the Essential Plan 2 you selected with Healthfirst, effective January 1, 2017.

Your case is **RETURNED** to NYSOH to facilitate your enrollment in the Essential Plan 2 you selected with Healthfirst as of January 1, 2017, and to notify you accordingly.

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).

As an aside, the Hearing Officer agreed to accept your proof of income for 2017 and to ensure that it was uploaded to your NYSOH account to be verified.

Decision

The November 10, 2016 disenrollment notice stating that your health insurance coverage in your UHC Essential Plan 2 ended effective November 30, 2016 is RESCINDED.

The November 10, 2016 enrollment confirmation notice stating your coverage in the Healthfirst Essential Plan 2 was effective December 1, 2016 is RESCINDED.

Your case is RETURNED to NYSOH to facilitate your re-enrollment in your UHC Essential Plan 2, effective December 1, 2016 through December 31, 2016.

The December 19, 2016 eligibility redetermination and disenrollment notices are RESCINDED.

The January 3, 2017 eligibility redetermination and enrollment confirmation notices are MODIFIED to state respectively that you were eligible to enroll in the Essential Plan with no monthly premium as of January 1, 2017 for a limited time, and were enrolled in the Essential Plan 2 you selected with Healthfirst, effective January 1, 2017.

Your case is RETURNED to NYSOH to facilitate your enrollment in the Essential Plan 2 you selected with Healthfirst as of January 1, 2017, and to notify you accordingly.

Effective Date of this Decision: January 9, 2017

How this Decision Affects Your Eligibility

The effective date of your Essential Plan 2 enrollment with UHC Plan is restored for the period of December 1, 2016 through December 31, 2016.

Your case is being RETURNED to NYSOH to restore your coverage in that plan for that period and to notify you once this change has been effectuated.

The effective date of your Essential Plan eligibility and Healthfirst Essential Plan 2 enrollment is January 1, 2017.

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).

Your case is being RETURNED to NYSOH to change your start date to January 1, 2017 in your Essential Plan 2 with Healthfirst and to notify you once this change has been effectuated.

Since you did not have a monthly premium in either Essential Plan, nothing is due for December 2016 or January 2017.

As an aside and since proof of 2017 household income remained outstanding as of the January 9, 2017 hearing, the Hearing Officer agreed to hear testimony as to your income and receive documentary proof. You testified that your only source of household income you have for 2017 is monthly Social Security benefits in the amount of \$1,393.00. The Hearing Officer agreed to accept your award letter from Social Security Administration for 2017 and have it admitted into evidence and uploaded to your account so that NYSOH could verify the information on your NYSOH account and confirm your eligibility. The record remains open only in this regard.

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:

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).

- 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 November 10, 2016 disenrollment notice stating that your health insurance coverage in your UHC Essential Plan 2 ended effective November 30, 2016 is **RESCINDED**.

The November 10, 2016 enrollment confirmation notice stating your coverage in the Healthfirst Essential Plan 2 was effective December 1, 2016 is **RESCINDED**.

Your case is **RETURNED** to NYSOH to facilitate your re-enrollment in your UHC Essential Plan 2, effective December 1, 2016 through December 31, 2016.

The December 19, 2016 eligibility redetermination and disenrollment notices are **RESCINDED**.

The January 3, 2017 eligibility redetermination and enrollment confirmation notices are **MODIFIED** to state respectively that you were eligible to enroll in the Essential Plan with no monthly premium as of January 1, 2017 for a limited time, and were enrolled in the Essential Plan 2 you selected with Healthfirst, effective January 1, 2017.

Your case is **RETURNED** to NYSOH to facilitate your enrollment in the Essential Plan 2 you selected with Healthfirst as of January 1, 2017, and to notify you accordingly.

The effective date of your Essential Plan 2 enrollment with UHC Plan is restored for the period of December 1, 2016 through December 31, 2016.

Your case is being **RETURNED** to NYSOH to restore your coverage in that plan for that period and to notify you once this change has been effectuated.

The effective date of your Essential Plan eligibility and Healthfirst Essential Plan 2 enrollment is January 1, 2017.

Your case is being **RETURNED** to NYSOH to change your start date from December 1, 2016 to January 1, 2017 in your Essential Plan 2 with Healthfirst and to notify you once this change has been effectuated.

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).

Since you did not have a monthly premium in either Essential Plan, nothing is due to the respective health plans for December 2016 or January 2017.

As an aside and since proof of 2017 household income remained outstanding as of the January 9, 2017 hearing, the Hearing Officer agreed to hear testimony as to your income and receive documentary proof. You testified that your only source of household income you have for 2017 is monthly Social Security benefits in the amount of \$1,393.00. The Hearing Officer agreed to accept your award letter from Social Security Administration for 2017 and have it admitted into evidence and uploaded to your account so that NYSOH could verify the information on your NYSOH account and confirm your eligibility. The record remains open only in this regard.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

