



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: AP000000014825

[REDACTED]

Dear [REDACTED],

On April 5, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 10, 2016 plan enrollment 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  
P.O. Box 11729  
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## Decision

Decision Date: May 12, 2017

NY State of Health Account ID [REDACTED]  
Appeal Identification Number: AP000000014825

[REDACTED]

## Issue

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

Did NY State of Health properly enroll you in an Essential Plan 1 with a \$20.00 premium, effective January 1, 2016 instead of January 1, 2017?

## Procedural History

According to your NYSOH account, you were eligible for the Essential Plan, effective January 1, 2016, with no premium and were enrolled in an Essential Plan 2 through December 31, 2016.

On October 13, 2016, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not decide whether you would qualify for financial help paying for your health coverage, and that you needed to update your account between November 16, 2016 and December 15, 2016 or you might lose the financial assistance you were currently receiving.

On November 17, 2016, NYOSH received your updated application for financial assistance.

On November 18, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan, with a \$20.00 monthly premium effective January 1, 2017. The notice stated this eligibility was based on your reported household income of \$23,028.00.

Also on November 18, 2016, NYSOH issued a plan enrollment notice confirming your November 17, 2016, selection of an Essential Plan 1, at a \$20.00 monthly premium, with an enrollment start date of January 1, 2016.

On December 9, 2016, NYOSH received your updated application for financial assistance.

On December 10, 2016, NYSOH issued eligibility determination and plan enrollment notices that were identical to the November 18, 2016 notices with an Essential Plan 1 and an enrollment start date of January 1, 2016.

On January 12, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in Essential Plan 1 insofar as it did not begin January 1, 2017. You further requested that your enrollment in Essential Plan 2 at \$0.00 monthly premium, reflect coverage from January 1, 2016 to December 31, 2016.

On April 5, 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 until April 20, 2017 to allow you to submit supporting documentation.

On April 11, 2017, the Appeals Unit received via facsimile a one page memo from you, a one page December 28, 2015 letter from you to [REDACTED], and a one page letter dated April 5, 2017 from Excellus to you confirming your qualified health plan coverage was cancelled effective December 31, 2015. These documents were collectively made part of the record as "Appellant's Exhibit # 1." The record is now closed.

## **Findings of Fact**

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

- 1) You testified and your application confirms that you expect to file your 2016 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 2) You are seeking insurance for yourself.
- 3) According to your NYSOH account, you were eligible for and enrolled in Essential Plan 2 at a \$0.00 monthly premium from January 1, 2016 through December 31, 2016.
- 4) You submitted updated applications to NYSOH for financial assistance on November 17, 2016 and on December 9, 2016.

- 5) According to your NYSOH account and your testimony, you enrolled in an Essential Plan 1 at a \$20.00 monthly premium on November 17, 2016 and on December 9, 2016.
- 6) You testified that, after receiving the enrollment notices dated November 18, 2016 and December 10, 2016, your Essential Plan sent you numerous different bills with some invoices seeking \$20.00 premiums for all the months of 2016.
- 7) You testified that you had medical treatment in December 2016 and had to pay a co-pay and had higher prescription costs during that month.
- 8) You testified that you paid \$20.00 in premium for your Essential Plan for the month of December 2016.
- 9) You testified that you want it made clear that you had Essential Plan 2 coverage for period of January 1, 2016 to December 31, 2016 with no premium and that your Essential Plan 1 coverage started January 1, 2017.
- 10) You testified that you would like a return of any monthly premium you paid for coverage in 2016 and a return of any co-pays and higher prescription costs you had to pay for December 2016.

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

## **Applicable Law and Regulations**

### Essential Plan Renewal

In general, NYSOH will review Essential Plan eligibility no more frequently than once every 12 months from the effective date of eligibility as long as enrollees are under age 65, not enrolled in minimum essential coverage, remain state residents, and do not have any changes in circumstances. 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, failure to make the applicable premium payment, or changes in circumstances (42 CFR § 600.340(a); 42 CFR § 600.320(d); NY Social Services Law § 369-gg(3) and (4)(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>).

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NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (42 CFR § 600.340(e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (42 CFR §600.345; (NY Social Services Law § 369-gg(4)(c); 45 CFR § 155.335(g); 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>).

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 1 was effective January 1, 2016.

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

Generally, NYSOH will redetermine a qualified individual's eligibility for the Essential Plan once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's October 13, 2016, renewal notice stated that there was not enough information to determine whether you were eligible to continue your financial assistance for health insurance, and that you needed to supply additional information by December 15, 2016, or your financial assistance might end.

You testified, and the record indicates, that you updated your NYSOH application on November 17, 2016 and again on December 9, 2016. As a result, you were

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found eligible each time for the Essential Plan at a \$20.00 monthly premium as of January 1, 2017.

According to your NYSOH account and your testimony, you selected an Essential Plan 1 on November 17, 2016 and again on December 9, 2016.

NYSOH issued plan enrollment notices on November 18, 2016 and on December 10, 2016 stating that you were enrolled in an Essential Plan 1 at \$20.00 per month premium with a plan enrollment start date of January 1, 2016.

The date on which eligibility for and enrollment in an Essential Plan can take effect depends on the day a person updates the information in their NYSOH account.

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 the updates to your account were made on November 17, 2016 and December 9, 2016, any changes to your eligibility or enrollment in an Essential Plan should have been made effective January 1, 2017. It appears to be a system error that the plan enrollment notices issued on November 18, 2016 and December 10, 2016 have an Essential Plan 1 enrollment start date of January 1, 2016, when both notices should have stated your Essential Plan 1 enrollment started January 1, 2017.

Therefore, the November 18, 2016 and December 10, 2016 eligibility determination notices that stated you were eligible to enroll in the Essential Plan, effective January 1, 2017 were correct and are AFFIRMED.

However, the November 18, 2016 and December 10, 2016 plan enrollment notices confirming your enrollment in an Essential Plan 1 with a \$20.00 per month premium, effective January 1, 2016, have an incorrect start date and, therefore, are MODIFIED to state that your Essential Plan 1 at \$20.00 per month premium started as of January 1, 2017.

Your case is RETURNED to NYSOH to ensure you are enrolled into your Essential Plan 2, with \$0.00 premium per month effective January 1, 2016 through December 31, 2016.

Your case is also RETURNED to NYSOH to ensure you are enrolled in your Essential Plan 1 at \$20.00 a month premium effective January 1, 2017.

As such, NYSOH is also directed to assist you in recouping any co-payments, additional prescription costs and/or premiums you had to pay in 2016 because of

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the system error in making your Essential Plan 1 enrollment effective January 1, 2016 when it should have been January 1, 2017.

## **Decision**

The November 18, 2016 and December 10, 2016 eligibility determination notices are AFFIRMED.

The November 18, 2016 and December 10, 2016 plan enrollment notices are MODIFIED to state that your Essential Plan 1 with a \$20.00 per month premium, have a plan enrollment start date of January 1, 2017.

Your case is RETURNED to NYSOH to ensure you are enrolled into your Essential Plan 2, with \$0.00 premium per month effective January 1, 2016 through December 31, 2016.

Your case is also RETURNED to NYSOH to ensure that you are enrolled into your Essential Plan 1, with a \$20.00 premium per month effective January 1, 2017.

NYSOH will assist you in the return of any premium, co-pay or higher prescription costs that your plan may have charged you in 2016.

**Effective Date of this Decision:** May 12, 2017

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

This decision does not change your eligibility. You were eligible for the Essential Plan throughout 2016 and again as of January 1, 2017.

You had coverage with your Essential Plan 2 from January 1, 2016 through December 31, 2016 with no monthly premium.

The effective date of your enrollment in the Essential Plan 1, with a \$20.00 monthly premium, is January 1, 2017.

Your case is returned to NYSOH to ensure that your 2016 enrollment in an Essential Plan 2 is corrected and your enrollment in an Essential Plan 1 is effective January 1, 2017, and to assist you in recouping any moneys you might have had to pay in 2016 because of the system error.



## **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
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729

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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The November 18, 2016 and December 10, 2016 eligibility determination notices are AFFIRMED.

The November 18, 2016 and December 10, 2016 plan enrollment notices are MODIFIED to state that your Essential Plan 1 with a \$20.00 per month premium, have a plan enrollment start date of January 1, 2017.

Your case is RETURNED to NYSOH to ensure you are enrolled into your Essential Plan 2, with \$0.00 premium per month effective January 1, 2016 through December 31, 2016.

Your case is also RETURNED to NYSOH to ensure that you are enrolled into your Essential Plan 1, with a \$20.00 premium per month effective January 1, 2017.

NYSOH will assist you in the return of any premium, co-payments or higher prescription costs that your plan may have charged you in 2016.

This decision does not change your eligibility. You were eligible for the Essential Plan throughout 2016 and again as of January 1, 2017.

You had coverage with your Essential Plan 2 from January 1, 2016 through December 31, 2016 with no monthly premium.

The effective date of your enrollment in the Essential Plan 1, with a \$20.00 monthly premium, is January 1, 2017.

Your case is returned to NYSOH to ensure that your 2016 enrollment in an Essential Plan 2 is corrected and your enrollment in an Essential Plan 1 is effective January 1, 2017, and to assist you in recouping any moneys you might have had to pay in 2016 because of the system error.

## **Legal Authority**

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

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**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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## **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&btumi 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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