



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

## Notice of Decision

Decision Date: May 01, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014856

[REDACTED]

Dear [REDACTED],

On April 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 5, 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).

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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: May 01, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014856

[REDACTED]

## Issue

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

Did NY State of Health (NYSOH) properly determine that your enrollment in an Essential Plan was effective February 1, 2017?

## Procedural History

On November 21, 2016, you updated your NYSOH account and completed an application for financial assistance.

On November 22, 2016, NYSOH issued a notice of eligibility determination, based on your November 21, 2016 application, stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective January 1, 2017.

Also on November 22, 2016, NYSOH issued a notice of enrollment, based on your plan selection on November 21, 2016, stating that you were enrolled in an Essential Plan through Emblem Health, and that your plan would start January 1, 2017.

On January 4, 2017, you updated your NYSOH account.

On January 5, 2017, NYSOH issued a notice of enrollment confirmation, based on your new plan selection on January 4, 2017, stating that you were enrolled in an Essential Plan through Fidelis, and that your plan would start February 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).

Also on January 5, 2017, NYSOH issued a disenrollment notice stating that your enrollment in your Emblem Health Essential Plan was terminated, effective January 31, 2017.

On January 13, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in your Fidelis Essential Plan, insofar as it did not begin January 1, 2017.

A hearing was scheduled April 6, 2017; however, when you were contacted by a Hearing Officer, you said you had not received the notice of hearing and your hearing was adjourned to April 13, 2017.

On April 13, 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 support the following findings of fact:

- 1) You submitted an updated application for financial assistance on November 21, 2016.
- 2) You testified, and your NYSOH account reflects, that you were previously enrolled in an Essential Plan through Emblem Health until September 30, 2016.
- 3) You testified that you had many problems making your premium payments when you were enrolled in that plan, as you were told you had to make payments through an automated phone system, or by using Emblem's "app."
- 4) You testified that you often were unable to complete your payment by phone, but when you would call Emblem, they would tell you just to try again in a little while.
- 5) You testified that this eventually caused your coverage to be cancelled for missing a premium payment.
- 6) You testified that no one from Emblem ever told you that you were going to be losing your coverage when you called to tell them that you were having a problem making your payment, and that you did not find out that you had lost coverage until after it happened.

- 7) You testified that you decided to try to re-enroll in coverage, which is why you updated your account on November 21, 2016.
- 8) You testified, and the record reflects, that you selected an Emblem Health Essential Plan for enrollment, and that NYSOH issued a notice confirming that your enrollment would begin on January 1, 2017.
- 9) You testified that you began trying to make your January 2017 premium payment, but again had problems with Emblem Health's automated phone system.
- 10) You testified that you called and spoke to someone at Emblem Health who told you that you could not make your payment until your coverage was effective, which was supposed to be on January 1, 2017.
- 11) You testified that you tried to pay again on January 1, 2017, and the system would not acknowledge your payment. You testified that you subsequently found out that you owed one month's premium from your previously enrollment, but you thought that you could simply pay that back when you made your January 2017 premium payment.
- 12) You testified that you never received new insurance cards from Emblem Health, nor did you receive a welcome packet or any other paperwork. You testified that the representatives you spoke with from Emblem informed you that you would receive this documentation in January 2017.
- 13) You testified that finally someone from NYSOH told you that you might want to switch to a different health plan, as you were having so many problems making your premium payment to Emblem Health.
- 14) You testified that no one at Emblem ever told you that you had missed a payment in 2016, and that it was someone at NYSOH who suggested that this might be causing a problem with your new enrollment.
- 15) You testified that you went for [REDACTED] in early January 2017, before you discovered that your coverage was not active, and that you are looking for coverage from either Fidelis or Emblem so that you can have this bill paid.
- 16) On March 17, 2017, the Notice of Hearing sent to you by NYSOH was returned as undeliverable, and it included a new address for you, located in California.

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)).

### Eligibility to Enroll through NYSOH

To be eligible to enroll in coverage through NYSOH, an individual must intend to reside in New York State (45 CFR § 155.305(a)(3)).

## **Legal Analysis**

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

You testified, and the record indicates, that you selected a Fidelis Essential Plan for enrollment on January 4, 2017. As a result, NYSOH issued a notice on January 5, 2017 confirming that your enrollment in that plan was effective as of February 1, 2017.

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.

You selected the Fidelis Essential Plan on January 4, 2017, so your enrollment properly took effect on the first day of the first month following January; that is, on February 1, 2017.

Therefore, the January 5, 2017 enrollment confirmation notice, stating that your enrollment in the Fidelis Essential Plan was effective February 1, 2017, is correct and must be AFFIRMED.

However, you testified, and the record confirms, that you previously updated your NYSOH application on November 21, 2016, at which time you were found eligible for the Essential Plan with a \$20.00 monthly premium, effective January 1, 2017. Also on November 21, 2016, you selected an Emblem Health Essential Plan for enrollment, and NYSOH issued a notice on November 22, 2016 confirming your enrollment in that plan.

You testified that you were previously enrolled in an Emblem Health Essential Plan, and the record reflects that your coverage through this plan ended as of September 30, 2016. You testified that you repeatedly had problems using that plan's automated payment system to pay your premium, which is what led to your coverage being terminated, and that you were unable to get any assistance with this issue when you contacted Emblem Health.

You testified that, when you re-enrolled in the Emblem Health plan for January 1, 2017, you tried to pay your premium, and continued to be unable to utilize the automated payment system. You testified that no one at Emblem Health could assist you, and that you were getting conflicting information about whether you had coverage. You testified that was why you decided to change your enrollment to a different health plan.

Regardless of any situation you had with Emblem Health in the past, NYSOH's records reflect that you were enrolled into an Emblem Health Essential Plan from January 1, 2017 through January 31, 2017, and there is no information in your NYSOH account to indicate that this coverage was not in effect during that period.

Therefore, your case is RETURNED to NYSOH's Plan Management to coordinate with Emblem Health to ensure that you are enrolled in your Emblem Health Essential Plan for the month of January 2017, in accordance with the enrollment information in your account.

It is also noted that NYSOH has received returned mail, which indicates you have moved to California. Your case is also being returned for a determination as to whether you are still eligible to be enrolled in health insurance through NYSOH.

You will be responsible for your January 2017 premium payment for this coverage.

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).

## **Decision**

The January 5, 2017 enrollment confirmation notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH's Plan Management to coordinate with Emblem Health to ensure that you have active coverage in your Emblem Health Essential Plan for the month of January 2017, in accordance with the enrollment information reflected in your NYSOH account.

Your case is also being returned for a determination as to whether you are still eligible to be enrolled in health insurance through NYSOH, given the California address.

**Effective Date of this Decision:** May 01, 2017

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

Your enrollment in your Fidelis Essential Plan properly began on February 1, 2017.

You should have had coverage through your Emblem Health Essential Plan for the month of January 2017. Therefore, your case is being sent back so that NYSOH can coordinate with Emblem Health to ensure that you are enrolled in coverage for the month of January 2017.

You will be responsible for your Essential Plan premium for the month of January 2017.

### **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

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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  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The January 5, 2017 enrollment confirmation notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH's Plan Management to coordinate with Emblem Health to ensure that you have active coverage in your Emblem Health Essential Plan for the month of January 2017, in accordance with the enrollment information reflected in your NYSOH account.

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 also being returned for a determination as to whether you are still eligible to be enrolled in health insurance through NYSOH, given the California address.

Your enrollment in your Fidelis Essential Plan properly began on February 1, 2017.

You should have had coverage through your Emblem Health Essential Plan for the month of January 2017. Therefore, your case is being sent back so that NYSOH can coordinate with Emblem Health to ensure that you are enrolled in coverage for the month of January 2017.

You will be responsible for your Essential Plan premium for the month of January 2017.

### **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**

[REDACTED]

[REDACTED]

## 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।

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).

## **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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