



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

## Notice of Decision

Decision Date: June 08, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015713

[REDACTED]

Dear [REDACTED],

On May 16, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 2, 2017 disenrollment and plan enrollment 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

Decision Date: June 08, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015713



## 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 and your spouse's enrollment in the Essential Plan you preferred was effective March 1, 2017?

## Procedural History

According to your NYSOH account, you and your spouse were determined eligible for and enrolled in an Essential Plan, effective August 1, 2016, through NYSOH. You both were enrolled in an Excellus Blue Cross Blue Shield (Excellus BCBS) plan as of August 1, 2016.

On December 16, 2016, with the assistance of a certified application counselor (CAC), your account was updated including that your children needed financial assistance through NYSOH.

On December 17, 2016, NY State of Health (NYSOH) issued an eligibility determination notice, based on your December 16, 2016 application, stating in part that you and your spouse were eligible to enroll in the Essential Plan, effective January 1, 2017. It also stated that your children were eligible to enroll in Child Health Plus

Also on December 17, 2016, NYSOH issued a plan enrollment notice stating in part that you and your spouse were enrolled in an Essential Plan with Fidelis Care, which would start January 1, 2017. Your children were enrolled in a Child

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Health Plus plan, also with Fidelis Care, with an enrollment start date of January 1, 2017.

Also on December 17, 2016, NYSOH issued a disenrollment notice stating that your and your spouse's enrollment in the Excellus BCBS Essential Plan was to end December 31, 2016.

On February 2, 2017, NYSOH issued a plan enrollment notice, based on the plan selection you made on February 1, 2017, indicating that your and your spouse's enrollment in an Excellus BCBS Essential Plan would begin March 1, 2017.

Also on February 2, 2017, NYSOH issued a disenrollment notice indicating that your and your spouse's enrollment in the Fidelis Care Essential Plan would end February 28, 2017.

On February 10, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Excellus BCBS Essential Plan insofar as it did not resume as of February 1, 2017.

On May 16, 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) As of August 1, 2016, you and your spouse were enrolled in an Excellus BCBS Essential Plan.
- 2) You submitted an application to NYSOH for financial assistance for your children on December 16, 2017.
- 3) On December 16, 2016, you were assisted by a CAC from Fidelis Care in updating your account for your children, who were determined eligible to enroll in a Child health Plus plan, effective January 1, 2017.
- 4) You testified that you selected a Fidelis Care Child Health Plus plan for your children that day with coverage to start January 1, 2017, since you were only seeking coverage for them at that time.
- 5) You further testified that, on December 16, 2016, the CAC also changed you and your spouse's Essential Plan coverage from Excellus BCBS to Fidelis Care in error and without your consent.

- 6) You testified that you had communications with the CAC, in which she admitted to her error in changing you and your spouse's Essential Plan coverage to a Fidelis Care plan and indicated that she would get it fixed so that our Excellus BCBS Essential Plan coverage could resume as of February 1, 2017.
- 7) You also testified that the CAC stated the issue was resolved and that you and your spouse's coverage in the Excellus BCBS Essential Plan would resume February 1, 2017.
- 8) You testified that when this did not actually occur, you filed a complaint with NYSOH.
- 9) According to your NYSOH account, that complaint was not resolved in your favor and you were told your only remaining recourse was to file an appeal, which you did.
- 10) You testified that you want your and your spouse's enrollment in the Excellus BCBS plan to resume as of February 1, 2017, since your enrollments in a different Essential Plan were in error and your medical provider from whom you or your spouse received services in February 2017 does not participate in Fidelis Care.

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)).

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## Legal Analysis

The issue is whether NYSOH properly determined that your enrollment in the Excellus BCBS Essential Plan was effective March 1, 2017.

You testified, and the record indicates, that you requested to change you and your spouse's enrollment from Fidelis Care Essential Plan back to Excellus BCBS Essential Plan on February 1, 2017. As a result, you both were enrolled in the Excellus BCBS Essential plan as of March 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 February 1, 2017, you re-selected the Excellus BCBS Essential Plan, so your and your spouse's enrollment would take effect on the first day of the first month following February 1, 2017; that is, on March 1, 2017 under normal circumstances.

However, under the circumstances in your case, a Fidelis Care CAC changed your and your spouse's enrollments on December 16, 2016 to a Fidelis Care Essential Plan, effective January 1, 2017, in error and without your consent. This error necessitated action on your part to resolve the error so that coverage could resume in your preferred Essential Plan.

You credibly testified that you only intended to have your children enrolled in a Child Health Plus plan and that your CAC admitted she erred in also changing your and your spouse's enrollments to a Fidelis Care Essential Plan. Although the CAC attempted to fix her error, she was unsuccessful despite informing you that your and your spouse's enrollment in the Excellus BCBS plan was to resume as of February 1, 2017, when it did not. The record further reflects that you filed a complaint with NYSOH in an effort to get the matter resolved but your request to have your enrollments backdated to the Essential Plan you preferred was denied. Based on the totality of the evidence in the record, it is reasonable to conclude that, but for the CAC's error in enrolling you in a Fidelis Care plan and doing so without your consent, you and your spouse would have remained enrolled in your Excellus BCBS Essential Plan.

Therefore, the February 2, 2017 plan enrollment notice stating that your and your spouse's enrollment in the Excellus BCBS Plan was effective March 1, 2017 is MODIFIED to state that your enrollments in that plan are effective February 1, 2017.

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It follows that the February 2, 2017 disenrollment notice stating that you and your spouse's enrollment in the Fidelis Care Essential Plan ended February 28, 2017 is MODIFIED to state that your enrollments in that plan ended January 31, 2017.

Your case is RETURNED to NYSOH to effectuate these changes and to notify you accordingly.

## **Decision**

The February 2, 2017 plan enrollment notice stating that you and your spouse's enrollment in the Excellus BCBS Plan was effective March 1, 2017 is MODIFIED to state that your enrollments in that plan are effective February 1, 2017.

The February 2, 2017 disenrollment notice stating that you and your spouse's enrollment in the Fidelis Care Essential Plan ended February 28, 2017 is MODIFIED to state that your enrollments in that plan ended January 31, 2017.

Your case is RETURNED to NYSOH to effectuate these changes and to notify you accordingly.

**Effective Date of this Decision:** June 08, 2017

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

This decision does not change you and your spouse's eligibility for the Essential Plan but does modify your enrollments and disenrollments in the respective plans as stated above.

Your case is being sent back to NYSOH to change the effective date of you and your spouse's enrollment in the Excellus BCBS Essential Plan to February 1, 2017, and the disenrollment date from the Fidelis Care Essential Plan to January 31, 2017. NYSOH will notify you once these changes are made.

You will be responsible to pay the February 2017 premiums to the Excellus BCBS Essential Plan directly for you and your spouse's coverage in February 2017 to resume.

## **If You Disagree with this Decision (Appeal Rights)**

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 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  
Albany, NY 12211

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- By fax: 1-855-900-5557

## **Summary**

The February 2, 2017 plan enrollment notice stating that your and your spouse's enrollment in the Excellus BCBS Plan was effective March 1, 2017 is MODIFIED to state that your enrollments in that plan are effective February 1, 2017.

The February 2, 2017 disenrollment notice stating that you and your spouse's enrollment in the Fidelis Care Essential Plan ended February 28, 2017 is MODIFIED to state that your enrollments in that plan ended January 31, 2017.

Your case is RETURNED to NYSOH to effectuate these changes and to notify you accordingly.

This decision does not change you and your spouse's eligibility for the Essential Plan but does modify your enrollments and disenrollments in the respective plans as stated above.

Your case is being sent back to NYSOH to change the effective date of you and your spouse's enrollment in the Excellus BCBS Essential Plan to February 1, 2017, and the disenrollment date from the Fidelis Care Essential Plan to January 31, 2017. NYSOH will notify you once these changes are made.

You will be responsible to pay the February 2017 premiums to the Excellus BCBS Essential Plan directly for you and your spouse's coverage in February 2017 to resume.

## **Legal Authority**

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

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

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 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).

## **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)**

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).

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 srɛ wo, frɛ 1-855-355-5777. yɛbɛtumi ama wo obi a okyerɛ 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.

### **אַײַדיש (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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