



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

Notice of Decision

Decision Date: July 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016022

[REDACTED]

Dear [REDACTED]

On May 30, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 25, 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: July 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016022

[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 your enrollment in an Essential Plan with Affinity Health Plan was effective no earlier than May 1, 2017?

Procedural History

On February 7, 2017, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your February 6, 2017 application, stating you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, for a limited time, effective March 1, 2017. The notice indicated you were eligible for the Essential Plan for a limited time, because more information was needed to confirm the information in your application. The notice directed you to submit proof of your income by May 7, 2017 or you might lose your insurance or receive less help paying for your coverage.

Also on February 7, 2017, NYSOH issued a notice of enrollment, based on your February 6, 2017 plan selection, confirming your enrollment in an Essential Plan with MVP Health Care, effective March 1, 2017.

On February 13, 2017, NYSOH received your updated application for health insurance.

On February 14, 2017, NYSOH issued a notice stating the income information in your application did not match information obtained from state and federal data

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source. The notice directed you to submit proof of your income to confirm your eligibility by February 28, 2017 or NYSOH would not be able to determine your eligibility for health coverage.

Also on February 14, 2017, NYSOH issued a notice of disenrollment stating your Essential Plan enrollment was terminated, effective March 1, 2017, because you were no longer eligible to enroll in the plan.

On February 21, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you did not have health coverage as of February 1, 2017.

On March 22, 2017, NYSOH systematically redetermined your eligibility.

On March 23, 2017, NYSOH issued an eligibility determination notice stating you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective May 1, 2017.

On March 24, 2017, NYSOH issued an enrollment notice, based on your March 23, 2017 plan selection, confirming your enrollment in an Essential Plan with MVP Health Care, effective May 1, 2017.

On March 25, 2017, NYSOH issued an enrollment notice, based on your March 24, 2017 plan selection, confirming your enrollment with an Essential Plan with Affinity Health Plan, effective May 1, 2017.

Also on March 25, 2017, NYSOH issued a disenrollment notice stating your coverage with your MVP Health Care Essential Plan would end on April 30, 2017, because you requested to end that coverage on March 24, 2017.

On May 30, 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) According to a notice issued by NYSOH on November 16, 2016, you were covered by Medicaid through your Local County Department of Social Services (LDSS) until January 31, 2017. That notice indicated that a NYSOH account had been started for you and directed you to log into your account by January 15, 2017 to renew your health coverage for the upcoming coverage year.

- 2) You testified that you spoke to a NYSOH representative in November 2016 to attempt to renew your health coverage and you were advised by the representative that you had to call back in February 2017 to complete your application.
- 3) According to your account, you contacted NYSOH on February 6, 2017 and an application was submitted on your behalf. You were determined conditionally eligible for the Essential Plan with income documentation required by May 7, 2017 to confirm your eligibility. You enrolled in an Essential Plan with MVP Health Care the same day and your coverage through this plan became effective March 1, 2017.
- 4) On February 13, 2017, you contacted NYSOH and incident [REDACTED] pertaining to your request to have your Essential Plan coverage backdated to February 1, 2017 was created. Notes in your account related to that incident indicated NYSOH reviewed the November 2016 telephone call recording and confirmed you were advised that you could not apply through NYSOH until your Medicaid coverage through your LDSS ended.
- 5) Also on February 13, 2017, you spoke to a NYSOH representative and updated the income information in your application by reducing your attested annual income amount to \$15,600.00.
- 6) Based on the income information in the February 13, 2017 updated application, you were disenrolled from your Essential Plan, effective March 1, 2017, because you were no longer eligible for the plan.
- 7) You were directed to submit proof of your income by February 28, 2017 so NYSOH could verify your income and determine what health coverage you were eligible for.
- 8) You contacted NYSOH on February 21, 2017 and a formal appeal was filed on your behalf regarding your disenrollment from your Essential Plan and your ineligibility for health coverage for the month of February 2017.
- 9) According to your account, on March 22, 2017, NYSOH verified income documentation you submitted and you were determined eligible to enroll in the Essential Plan, effective May 1, 2017, based on that documentation.
- 10) NYSOH reviewed telephone call recordings associated with your account and determined the following:
 - a. On March 23, 2017, you contacted NYSOH with your health care advocate. Your advocate indicated you were calling to request your Essential Plan coverage be backdated. You were advised by the representative that you would need to select a health plan before a

request to back date the coverage could be submitted. You and your advocate separately accessed your online account during the phone call, discussed the various plans available and which plans offered dental coverage and your advocate selected the MVP Health Plan online and indicated you would call back later to select a dental plan. The representative indicated she submitted a request to backdate that plan to February 1, 2017.

b. On March 24, 2017 at or around 2:00 p.m., you contacted NYSOH and stated you enrolled in a plan the previous day and you were not told there were other plans you could have chosen from. You indicated you just learned your medical providers did not accept the MVP Essential Plan and you wanted to change your health plan to Affinity. The representative indicated you were enrolled in an Essential Plan with Affinity Health Plan. Your advocate requested the Affinity Plan be backdated.

- 11) According to your account, NYSOH backdated your Essential Plan coverage with the MVP Health Care plan at 8:19 a.m. on March 24, 2017.
- 12) Your account confirms you were enrolled in an Essential Plan with MVP Health Care effective February 1, 2017 to April 30, 2017 and your coverage with your Essential Plan with Affinity Health Plan became effective May 1, 2017.
- 13) You testified you were appealing the effective date of your coverage with your Affinity Health Plan insofar as it was not effective February 1, 2017.
- 14) The issue under appeal was amended to whether NYSOH properly determined your coverage with your Affinity Health Plan Essential Plan became effective no earlier than May 1, 2017.
- 15) You testified you were seeking a backdating of your coverage with your Affinity Health Plan Essential Plan, based on bad information provided by the representative at the time of enrollment. You testified the representative never gave you a choice of health plans and you were never advised you were being enrolled in an Essential Plan with MVP Health 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)).

Valid Appeal Requests

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; and (4) a denial of a request for a special enrollment period (45 CFR § 155.505, 45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Legal Analysis

A formal appeal was filed on your behalf on February 21, 2017 and pertained to the termination of your March 1, 2017 Essential Plan enrollment with MVP Health Care and your ineligibility for health coverage for the month of February 2017. At the hearing, you testified you were only concerned with effective date of your Affinity Health Plan Essential Plan insofar as you were not covered by this plan beginning February 1, 2017.

Therefore, the issue under appeal was amended to whether NYSOH properly determined your enrollment in an Essential Plan with Affinity Health Plan was effective no earlier than May 1, 2017.

According to your account, on March 22, 2017, NYSOH verified income documentation you submitted and determined you to be eligible to enroll in the Essential Plan, effective May 1, 2017. A request for enrollment in an Essential Plan with MVP Health Care was submitted on your behalf on March 23, 2017.

Although you testified your enrollment in an Essential Plan with MVP Health Care on March 23, 2017 was inadvertent, because the representative you spoke with did not advise you there were other plans to choose from and you were never informed you were enrolled in an Essential Plan with MVP Health Care, a review of the telephone call recording from that day contradicts this testimony. The recording confirms you called NYSOH with your health care advocate to request your Essential Plan coverage be backdated. You were advised by the representative that you would need to select a health plan before a request to back date the coverage could be submitted. You and your advocate separately accessed your online account during the phone call, discussed the various plans available and which plans offered dental coverage and your advocate selected the MVP Health Plan online and indicated you would call back later to select a dental plan. The representative indicated she submitted a request to backdate that plan to February 1, 2017. Based on this evidence it is concluded you knowingly, intentionally, and with the assistance of your health care advocate, selected MVP Health Care as your Essential Plan on March 23, 2017.

Your account confirms that on March 24, 2017, NYSOH agreed to backdate your coverage through your MVP Health Care Essential Plan to February 1, 2017 due to misinformation you received from a NYSOH representative in November 2016 regarding the deadline by which to renew your health coverage through NYSOH to prevent a gap in coverage. The same day, you contacted NYSOH and indicated that you just learned your medical providers did not accept your MVP plan and, therefore, you were requesting to switch your health plan to an Affinity Health Plan Essential Plan. According to the telephone recordings from March 24, 2017, your advocate requested the Affinity Health Care Plan be backdated; however, according to your account, your request to backdate your MVP Essential Plan had already been approved and processed at 8:19 a.m. on March 24, 2017, prior to your request to switch your health plan to Affinity Health Care.

Pursuant to the above 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.

The evidence establishes you did not select the Affinity Health Plan until March 24, 2017, after the fifteenth day of the month. Therefore, according to the regulations, the coverage through that plan properly became effective on the first day of the second following month; that is, on May 1, 2017.

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It is noted that any voluntary action taken by NYSOH in backdating your coverage to resolve a gap in your health coverage due to missing the deadline for renewal is outside the limited scope of review of the NYSOH Appeals Unit. According, the Appeals Unit is without jurisdiction to determine which health plan NYSOH should have voluntarily backdated to February 1, 2017. However, the Appeals Unit does conclude that the competent evidence of record establishes that your March 23, 2017 enrollment in an Essential Plan with MVP Health Care was intentional and, therefore, there exists no justification to rescind that enrollment. The Appeals Unit further concludes that, based on the facts of the case and the application regulations, NYSOH properly determined your coverage through your Affinity Health Plan Essential Plan became effective on May 1, 2017.

Therefore, the March 25, 2017 enrollment confirmation notice stating your enrollment in the Affinity Health Plan Essential Plan was effective May 1, 2017, is correct and must be AFFIRMED.

Decision

The March 25, 2017 eligibility determination is AFFIRMED.

Effective Date of this Decision: July 17, 2017

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

The effective date of your Affinity Health Plan Essential Health Plan is May 1, 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.

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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
- By fax: 1-855-900-5557

Summary

The March 25, 2017 eligibility determination is **AFFIRMED**.

This decision does not change your eligibility.

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The effective date of your Affinity Health Plan Essential Health Plan is May 1, 2017.

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 مجانًا.

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 bɛtumi 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.

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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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