

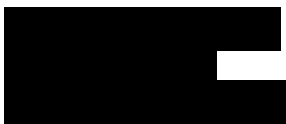


STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: July 17, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000016495



Dear [REDACTED],

On June 15, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 31, 2017 enrollment confirmation and cancellation 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: July 17, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000016495



## 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 1 through Emblem Health was effective March 1, 2017?

## Procedural History

On December 14, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your December 13, 2016, application, stating that you were eligible to enroll in the Essential Plan, effective January 1, 2017.

Also on December 14, 2016, NYSOH issued a notice of enrollment, based on your plan selection on December 13, 2016, stating you were enrolled in an Essential Plan with vision and dental through Empire Blue Cross, Blue Shield, and that your plan would start January 1, 2017.

On January 31, 2017, NYSOH issued a notice of enrollment, based on your plan selection on January 30, 2017, stating you were enrolled in an Essential Plan with vision and dental through Emblem Health, and that your plan would start March 1, 2017.

On January 31, 2017, NYSOH issued a cancellation notice stating your coverage with Empire Blue Cross, Blue Shield, Essential Plan would end effective February 28, 2017. The notice stated this was because you asked to end your coverage on January 30, 2017.

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On March 2, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential Plan with Emblem Health insofar as it did not begin February 1, 2017.

On June 15, 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 application to NYSOH for financial assistance on December 13, 2016.
- 2) You testified, and the record reflects, that you enrolled in an Essential Plan with Empire Blue Cross, Blue Shield on December 13, 2016.
- 3) You testified you contacted NYSOH on December 29, 2016 to change your plan enroll in a new plan with Emblem Health.
- 4) There is no record of a new enrollment being submitted on your behalf in your NYSOH account on December 29, 2016.
- 5) You changed your health plan for enrollment on January 30, 2017, and enrolled in an Emblem Health plan with a March 1, 2017 start date.
- 6) You testified you thought you had been enrolled in Emblem Health Essential Plan when you contacted NYSOH on December 29, 2016.
- 7) A complaint was filed for your request to backdate your coverage on March 2, 2017. See Complaint [REDACTED].
- 8) Your request to backdate your coverage of your Emblem Health plan was denied after a review by a NYSOH representative of your call to NYSOH on December 29, 2016.
- 9) A review of the recording of your call shows you contacted NYSOH on December 29, 2016, and requested to change your Essential Plan from Empire Blue Cross Blue Shield, to Emblem Health. The NYSOH representative confirmed your enrollment in Emblem Health that day. The representative confirmed you would remain enrolled in Empire Blue Cross Blue Shield plan for January, and your Emblem Health plan would start February 1, 2017.

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)).

## **Legal Analysis**

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

You were found eligible for and enrolled in an Essential Plan with Empire Blue Cross, Blue Shield on December 13, 2016.

On January 30, 2017, you were disenrolled from your Empire Blue Cross, Blue Shield plan as of February 28, 2017 and enrolled into an Emblem Health plan with a March 1, 2017 start date.

However, during your telephone hearing you testified you had contacted NYSOH on December 29, 2016 to change your health plan.

After reviewing the recording of the phone call you made to NYSOH on December 29, 2016, it is clear you contacted NYSOH and spoke with an agent for the purposes of changing your health plan. During the call, you requested to change your Essential Plan from Empire Blue Cross Blue Shield, to Emblem Health. The NYSOH representative confirmed your change in plans and enrollment in Emblem Health that day. The representative confirmed you would

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remain enrolled in Empire Blue Cross Blue Shield plan for January, and your Emblem Health plan would start February 1, 2017.

Therefore, the record reflects that you selected a new Essential Plan on December 29, 2016.

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 December 29, 2016, you selected an Essential Plan with Emblem Health through a NYSOH representative over the phone, so your enrollment should take effect on the first day of the second month following December; that is, on February 1, 2017.

Therefore, the January 31, 2017, enrollment confirmation notice stating that your enrollment in the Essential Plan with Emblem Health was effective March 1, 2017, is MODIFIED to reflect a February 1, 2017 start date.

The January 31, 2017, cancellation notice stating your coverage with Empire Blue Cross, Blue Shield, Essential Plan would end effective February 28, 2017 is MODIFIED to reflect a January 30, 2017 end date.

Your case is RETURNED to NYSOH to remove you from your Empire Blue Cross Blue Shield plan for the month of February 2017 and backdate your Emblem Health Essential Plan to begin as of February 1, 2017.

## **Decision**

The January 31, 2017, enrollment confirmation notice stating that your enrollment in the Essential Plan with Emblem Health was effective March 1, 2017, is MODIFIED to reflect a February 1, 2017 start date.

The January 31, 2017, cancellation notice stating your coverage with Empire Blue Cross, Blue Shield, Essential Plan would end effective February 28, 2017 is MODIFIED to reflect a January 30, 2017 end date.

Your case is RETURNED to NYSOH to remove you from your Empire Blue Cross Blue Shield plan for the month of February 2017 and backdate your Emblem Health Essential Plan to begin as of February 1, 2017.

**Effective Date of this Decision:** July 17, 2017

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

The effective date of your Essential Health Plan with Emblem Health is February 1, 2017.

Your case is being sent back to NYSOH to enroll you in Emblem Health Essential Plan for the month of February, 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 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

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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 31, 2017, enrollment confirmation notice stating that your enrollment in the Essential Plan with Emblem Health was effective March 1, 2017, is MODIFIED to reflect a February 1, 2017 start date.

The January 31, 2017, cancellation notice stating your coverage with Empire Blue Cross, Blue Shield, Essential Plan would end effective February 28, 2017 is MODIFIED to reflect a January 30, 2017 end date.

Your case is RETURNED to NYSOH to remove you from your Empire Blue Cross Blue Shield plan for the month of February 2017 and backdate your Emblem Health Essential Plan to begin as of February 1, 2017.

The effective date of your Essential Health Plan with Emblem Health is February 1, 2017.

Your case is being sent back to NYSOH to enroll you in Emblem Health Essential Plan for the month of February, 2017.

## **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).

## 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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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&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.

### **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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