



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

## Notice of Decision

Decision Date: August 23, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000018937

[REDACTED]

Dear [REDACTED],

On August 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 23, 2017 disenrollment notice and the May 14, 2017 eligibility determination and enrollment confirmation 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: August 23, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000018937

[REDACTED]

## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly terminate your Essential Plan for non-payment of premium effective, March 1, 2017?

Did NYSOH properly determine that your eligibility for, and reenrollment in, the Essential Plan was effective June 1, 2017?

## Procedural History

On January 31, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan for a limited time, effective March 1, 2017.

Also on January 31, 2017, NYSOH issued a notice confirming your enrollment in an Essential Plan, effective March 1, 2017.

On March 23, 2017, NYSOH issued a disenrollment notice stating that your enrollment in your Essential Plan was terminated, effective March 1, 2017, because a premium payment had not been received by the health plan by the payment deadline.

On May 13, 2017, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible to enroll in the Essential Plan, and you selected a plan for enrollment.

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Also on May 13, 2017, you spoke to NYSOH's Account Review Unit and appealed, insofar as your enrollment in the Essential Plan began on June 1, 2017, and not May 1, 2017.

On May 14, 2017, NYSOH issued a notice of eligibility determination, based on your May 13, 2017 application, stating that you were eligible to enroll in the Essential Plan, effective June 1, 2017.

Also on May 14, 2017, NYSOH issue a notice of enrollment confirmation, based on your plan selection on May 13, 2017, stating that you were enrolled in an Essential Plan effective June 1, 2017.

On August 18, 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) You testified that you are appealing to have your enrollment in your Essential Plan coverage begin on May 1, 2017, instead of June 1, 2017.
- 2) You were enrolled into an Essential Plan beginning March 1, 2017.
- 3) You testified that, after you enrolled, you waited to receive a bill or paperwork from your Affinity plan, but you never received anything from them.
- 4) You testified that you did not call Affinity at any point between when you enrolled in January 2017, and when you reenrolled in May 2017.
- 5) You were disenrolled from your Essential Plan, effective March 1, 2017.
- 6) You testified that you receive your notices from NYSOH by regular mail.
- 7) You testified that you did not receive any notice from NYSOH informing you that you had been disenrolled from your Essential Plan because your plan had not received a premium payment.
- 8) No notices sent to you at your mailing address have been returned to NYSOH as undeliverable.

- 9) You testified that you called NYSOH at some point in early May 2017, and found out that your coverage had been terminated for nonpayment.
- 10) You testified that, when you became aware that you had been disenrolled, you re-enrolled in coverage, but found out that your coverage would not begin until June 1, 2017.
- 11) On May 13, 2017, NYSOH received your updated application and Essential Plan selection.
- 12) You testified that you had to go to [REDACTED] in May 2017, and now have an outstanding bill of over \$1,000.00.
- 13) You testified that you would have paid your premium payment if you had received a bill from Affinity.

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

## **Applicable Law and Regulations**

### Appealable Issues

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) an eligibility determination for an exemption; (4) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

### 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

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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 first issue under review is whether NYSOH properly terminated your Essential Plan for failure to make a premium payment by the payment deadline, effective March 1, 2017.

On January 31, 2017, you were enrolled in an Essential Plan, effective March 1, 2017.

You testified that you waited for paperwork from Affinity telling you how to make your premium payment, but that you never received any kind of paperwork from them. You testified that you called NYSOH in early May 2017, and found out that you had been disenrolled from your coverage for nonpayment of your premium.

On March 23, 2017, NYSOH issued a notice stating that you were disenrolled from your Essential Plan for non-payment of premiums, effective March 1, 2017.

NYSOH Appeals Unit only has the authority to review issues related to the following: (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) an eligibility determination for an exemption, (4) a failure to provide timely notice of an eligibility determination and (5) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether you were properly terminated from your Essential Plan for non-payment of premiums. Therefore, your appeal of the March 23, 2017 disenrollment notice is **DISMISSED** as a non-appealable issue.

The second issue under review is whether NYSOH properly determined that your reenrollment in your Essential Plan was effective June 1, 2017.

You testified that you did not receive any notice from NYSOH telling you that you had been disenrolled from your Essential Plan coverage for failure to make a premium payment by the payment deadline. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail.

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However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, the record reflects that you were, or should have been, on notice that your Essential Plan coverage had been terminated, effective March 1, 2017. Moreover, NYSOH's disenrollment notice was dated March 23, 2017. As such, if you had contacted NYSOH to reenroll in coverage upon receipt of this notice, you would have had time to re-enroll in coverage prior to April 15, 2017, which would have given you the May 1, 2017 coverage start date you are seeking.

The record reflects that you contacted NYSOH on May 13, 2017 to update your application, and you re-enrolled into an Essential Plan on that day.

The date on which an Essential Plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and 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 and the end of the month goes into effect on the first day of the second following month.

As you contacted NYSOH to reenroll into an Essential Plan on May 13, 2017, your reenrollment should have taken effect the first day of the month following May 13, 2017; that is, on June 1, 2017.

Therefore, the May 14, 2017 eligibility determination and enrollment confirmation notice stating that your eligibility for, and reenrollment in your Essential Plan coverage, was effective June 1, 2017, are AFFIRMED.

## **Decision**

Your appeal of the insurer's termination of your enrollment in the Essential Plan for non-payment of premiums, effective March 1, 2017, is DISMISSED as a non-appealable issue.

The May 14, 2017 eligibility determination notice is AFFIRMED.

The May 14, 2017 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** August 23, 2017

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

This decision does not change your eligibility.

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 reenrollment in an Essential Plan was effective June 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.

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

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- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
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- By fax: 1-855-900-5557

## **Summary**

Your appeal of the insurer's termination of your enrollment in the Essential Plan for non-payment of premiums, effective March 1, 2017, is DISMISSED as a non-appealable issue.

The May 14, 2017 eligibility determination notice is AFFIRMED.

The May 14, 2017 enrollment confirmation notice is AFFIRMED.

This decision does not change your eligibility.

Your reenrollment in an Essential Plan was effective June 1, 2017.

## **Legal Authority**

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

**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।

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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&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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