



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

Notice of Decision

Decision Date: August 29, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019040

[REDACTED]

Dear [REDACTED],

On August 22, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 28, 2017 disenrollment notice and February 28, 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: August 29, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019040

[REDACTED]

Issues

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

Was your appeal of NY State of Health's February 28, 2017 disenrollment notice and February 28, 2017 enrollment confirmation notice timely?

Did NY State of Health properly determine that you and your spouse's enrollment in your Essential Plan was effective April 1, 2017?

Procedural History

On January 13, 2016, NY State of Health (NYSOH) received your application for financial assistance with health insurance.

On January 14, 2016, NYSOH issued an eligibility determination notice, based on your January 13, 2016 application, stating that you and your spouse were eligible to enroll in the Essential Plan, effective February 1, 2016.

Also on January 14, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in your Essential Plan, effective February 1, 2016.

On October 14, 2016, NYSOH issued a notice that it was time to renew your youngest child's health insurance for the upcoming coverage year. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether your youngest child would qualify for financial help paying for his health coverage, and that you needed to update your account

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by December 15, 2016 or he might lose the financial assistance he was currently receiving. That notice also stated that you and your spouse would get a notice about renewing your coverage around December 16, 2016 and that your and your spouse's current coverage would end on January 31, 2017.

No updates were received by December 15, 2016 and NYSOH redetermined your household's eligibility for financial assistance with health insurance.

On December 19, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan, effective January 1, 2017.

Also on December 19, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled into your Essential Plan effective January 1, 2017.

On January 11, 2017, you updated your household's application for financial assistance with health insurance through NYSOH.

On January 12, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan, effective February 1, 2017.

Also on January 12, 2017, NYSOH issued an enrollment confirmation notice stating that your and your spouse's enrollment in your Essential Plan with a plan enrollment start date of January 1, 2017.

On February 28, 2017, NYSOH issued a disenrollment notice stating that you and your spouse were disenrolled from your Essential Plan effective February 28, 2017.

On February 28, 2017, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in your Essential Plan effective April 1, 2017.

On May 18, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your and your spouse's enrollment in the Essential Plan insofar as it did not begin on February 1, 2017.

On May 17, 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) Your NYSOH account indicates that, on December 17, 2016, NYSOH redetermined your household's eligibility for financial assistance. You and your spouse were determined eligible for the Essential Plan on December 18, 2016, with an effective date of January 1, 2017.
- 2) Your NYSOH account indicates that you and your spouse were reenrolled in your Essential Plan with a plan enrollment start date of January 1, 2017.
- 3) You testified that you completed your renewal sometime in January 2017 and that you selected a plan for yourself and your spouse for enrollment at that time. You also testified that you received a notice advising you that you and your spouse were enrolled in the Essential Plan as of January 1, 2017.
- 4) Your NYSOH account indicates that, on January 11, 2017, you accessed your account on-line and updated your application. As a result of this application, you and your spouse were found eligible for the Essential Plan as of February 1, 2017. Your account also indicates that you reselected an Essential Plan for enrollment for yourself and your spouse that day.
- 5) You testified that, at the end of February 2017, you went to a doctor's appointment and were advised that you had no coverage.
- 6) You testified that you and your spouse paid your premium to your Essential Plan for the months of January 2017, February 2017, March 2017, and each month thereafter.
- 7) You testified that, after learning that you and your spouse were without coverage, you contacted NYSOH on February 27, 2017 and you and your spouse were reenrolled in the Essential Plan, but the coverage would not take effect until April 1, 2017.
- 8) You testified that, during that February 27, 2017 conversation with NYSOH, you did not request that you and your spouse be disenrolled from your Essential Plan.
- 9) During the hearing, you gave permission for the Hearing Officer to listen to recordings of telephone calls you had with NYSOH.
- 10) The record indicates that, on February 27, 2017, you placed two calls to NYSOH. A review of those telephone calls indicates that you contacted NYSOH in response to information that you and your spouse no longer

had coverage. The NYSOH representative, who identified himself as a supervisor, indicated that he was reenrolling you and your spouse into your Essential Plan, but that the plan would not begin until April 2017. This representative then indicated he was going to transfer you to the Account Review Unit for backdating of your and your spouse's coverage. The call was transferred to the Account Review Unit and the call was dropped. You then placed a second call to NYSOH and you were connected to the Account Review Unit. At that time, you requested to have your and your spouse's coverage in effect for February 2017 and March 2017. The NYSOH representative from the Account Review Unit indicated she was going to put in a backdating request. At no time during either of those telephone calls did you request that you and your spouse be disenrolled from your Essential Plan.

- 11) In response to your telephone call on February 27, 2017 a complaint [REDACTED] was created. This complaint states that you were requesting to backdate your and your spouse Essential Plan coverage to February 1, 2017. Notes within this complaint reflect that you called to follow-up on March 7, 2017 and March 20, 2017. This complaint shows it was closed on May 6, 2017 with an indication that NYSOH had declined to backdate your and your spouse's enrollment start date.
- 12) You testified that, in 2017, neither you nor your spouse were incarcerated, resided outside of New York State, or had third-party health insurance outside of NYSOH.
- 13) Your NYSOH account reflects that you and your spouse were enrolled your Essential Plan from January 1, 2017 through January 31, 2017.
- 14) You testified that you are seeking to have your and your spouse's coverage in the Essential Plan effective as of February 1, 2017.

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

Applicable Law and Regulations

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) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination (45

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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)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR §155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(D)).

Essential Plan Renewal

In general, NYSOH will review Essential Plan eligibility no more frequently than once every 12 months from the effective date of eligibility as long as enrollees are under age 65, not enrolled in minimum essential coverage elsewhere, remain state residents, and do not have any changes in circumstances. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12-month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or changes in circumstances (42 CFR § 600.340(a); 42 CFR § 600.320(d); NY Social Services Law § 369-gg(3) and (4)(d)); New York's Basic Health Plan Blueprint, pp. 8 and 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (42 CFR § 600.340(e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (42 CFR §600.345; (NY Social Services Law § 369-gg(4)(c); 45 CFR § 155.335(g); New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

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>).

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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 first issue under review is whether your appeal of NYSOH's February 28, 2017 enrollment notice and February 28, 2017 disenrollment notice was timely.

On February 28, 2017, NYSOH issued a notice of disenrollment stating that your and your spouse's enrollment in your Essential Plan would end on February 28, 2017. Also on February 28, 2017, NYSOH issued a notice of enrollment stating that your and your spouse's reenrollment in your Essential Plan was effective April 1, 2017.

The record reflects that you first contacted NYSOH to file a formal appeal regarding your and your spouse's Essential Plan enrollment date on May 17, 2017.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of your Essential Plan enrollment date, an appeal should have been filed by April 29, 2017. The record reflects that you filed your appeal on May 17, 2017, which is beyond the 60-day deadline.

Although your appeal was untimely on its face, you contacted the NYSOH Account Review Unit on February 27, 2017 regarding your and your spouse's Essential Plan enrollment start date, which was within the 60-day time frame to appeal. You followed up on this complaint on March 7, 2017 and March 20, 2017. Furthermore, this complaint was not closed until May 6, 2017 when NYSOH declined to grant your request to backdate your and your spouse's Essential Plan enrollment start date.

As you contacted NYSOH on February 27, 2017 seeking a February 1, 2017 enrollment start date for your and your spouse's Essential Plan, which was within 60-days of the February 28, 2017 decision, and your appeal was filed within 60-days of the resolution of the complaint that was created as a result of this February 27, 2017 contact, your appeal was timely and will be addressed.

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The second issue under review is whether NYSOH properly determined that you and your spouse's enrollment in your Essential Plan was effective April 1, 2017.

You and your spouse were originally found eligible for the Essential Plan effective February 1, 2016.

On December 18, 2016, NYSOH redetermined your household's eligibility for financial assistance. On December 19, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible for and enrolled in your Essential Plan effective January 1, 2017.

On January 11, 2017, you updated your household's application for financial assistance. As a result of this update, NYSOH issued the January 12, 2017 eligibility determination notice stating that you and your spouse were eligible for the Essential Plan as of February 1, 2017.

Also on January 11, 2017, you reselected an Essential Plan for enrollment for yourself and your spouse. On February 12, 2017, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in your Essential Plan effective January 1, 2017.

On February 27, 2017, you contacted NYSOH regarding issues with your and your spouse's coverage. As a result of that contact, NYSOH issued a disenrollment notice dated February 28, 2017 stating that your and your spouse's enrollment in your Essential Plan would end on February 28, 2017, and an enrollment confirmation notice stating that you and your spouse were reenrolled in your Essential Plan as of April 1, 2017.

However, during the telephone calls you placed to NYSOH on February 27, 2017, you never requested that you and your spouse be disenrolled from your Essential Plan.

Following the January 11, 2017 request to enroll yourself and your spouse into the Essential Plan, you have never requested that either you or your spouse be disenrolled from the Essential Plan.

Therefore, the February 28, 2017 disenrollment notice is RESCINDED.

The date on which the 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 after the fifteenth day of a month goes into effect on the first day of the second following month.

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As you initially selected an Essential Plan for enrollment on January 11, 2017, and you subsequently did not request to disenroll yourself or your spouse from your Essential Plan, your and your spouse's enrollment must take effect on the first day of the month following after January 2017; that is, on February 1, 2017.

Therefore, the February 28, 2017 enrollment confirmation notice is MODIFIED to state that your and your spouse's enrollment in the Essential Plan was effective February 1, 2017.

Decision

The February 28, 2017 disenrollment notice is RESCINDED.

The February 28, 2017 enrollment confirmation notice is MODIFIED to state that your and your spouse's enrollment in the Essential Plan was effective February 1, 2017.

Your case is RETURNED to NYSOH to reenroll you and your spouse in your Essential Plan, effective February 1, 2017, and to notify you accordingly.

Effective Date of this Decision: August 29, 2017

How this Decision Affects Your Eligibility

Your and your spouse's enrollment in the Essential Plan should have been effective as of February 1, 2017.

Your case is being sent back to NYSOH to reenroll you and your spouse in your Essential Plan as of February 1, 2017. NYSOH will notify you once this is done.

You will be responsible to pay to the health plan directly the monthly premium due for the months that you and your spouse are reenrolled in your Essential Plan.

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

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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
- By fax: 1-855-900-5557

Summary

The February 28, 2017 disenrollment notice is **RESCINDED**.

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The February 28, 2017 enrollment confirmation notice is MODIFIED to state that your and your spouse's enrollment in the Essential Plan was effective February 1, 2017.

Your case is RETURNED to NYSOH to reenroll you and your spouse in your Essential Plan, effective February 1, 2017, and to notify you accordingly.

Your and your spouse's enrollment in the Essential Plan should have been effective as of February 1, 2017.

Your case is being sent back to NYSOH to reenroll you and your spouse in your Essential Plan as of February 1, 2017. NYSOH will notify you once this is done.

You will be responsible to pay to the health plan directly the monthly premium due for the months that you and your spouse are reenrolled in your Essential Plan.

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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