



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

## Notice of Decision

Decision Date: September 19, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019122

[REDACTED]

Dear [REDACTED],

On August 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 1, 2016 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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## Decision

Decision Date: September 19, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019122

[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Is your most recent appeal of the April 1, 2016 enrollment confirmation notice valid?

## Procedural History

On April 1, 2016, NYSOH issued an eligibility determination notice stating you and your spouse were eligible to enroll in an Essential Plan, for a limited time, effective May 1, 2016. The notice directed you to submit proof of your household income to confirm the income information in your application by June 29, 2016 or you might lose your insurance or receive less help paying for your coverage.

Also on April 1, 2016, NYSOH issued an enrollment notice, based on your March 31, 2016 plan selection, confirming you and your spouse were enrolled in an Essential Plan, effective May 1, 2016.

On April 5, 2016, an appeal regarding you and your spouse's eligibility for health coverage for the months of March and April 2016 was filed on your behalf, [REDACTED]. On April 21, 2016, you filed appeal [REDACTED] regarding a decision issued on April 22, 2016, which found you and your spouse eligible to enroll for a limited time in the Essential Plan, effective May 1, 2016.

Both appeals were dismissed on October 6, 2016 for your failure to appear at the scheduled telephone hearing. No action was taken by you with regard to that dismissal; it therefore became final.

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On May 19, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you and your spouse were not covered under your Essential Plan in April 2016.

On August 31, 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 your account, you and your spouse selected an Essential Plan for enrollment on March 31, 2016.
- 2) The enrollment confirmation notice issued on April 1, 2016 indicated that coverage through that plan would become effective on May 1, 2016.
- 3) According to your account, two prior appeals were filed on behalf of you and your spouse regarding your eligibility for health coverage for the months of March and April 2016.
- 4) The appeals were [REDACTED] and [REDACTED]. A telephone hearing was scheduled October 4, 2016.
- 5) According to your account, you failed to appear for the telephone hearing on the scheduled date and time and the appeal was dismissed on October 6, 2016.
- 6) You testified that you were at work and unable to answer the phone at the time of the hearing.
- 7) You testified, and your account confirms, that you did not submit any request to vacate the dismissal of your appeal.
- 8) You testified that you do not recall receiving the October 6, 2016 dismissal notice.
- 9) According to your account, you contacted NYSOH on May 19, 2017 to contest the effective date of your Essential Plan enrollment insofar as the coverage began May 1, 2016 and not April 1, 2016. A formal appeal was filed on behalf of you and your spouse the same day.
- 10) You testified you have outstanding medical bills from the month of April 2016 and you are seeking to have your coverage backdated for that month.

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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) 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)).

Individual applicants and enrollees must request a hearing within 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)).

## **Legal Analysis**

The issue under review is whether your appeal of the April 1, 2016 enrollment confirmation notice was valid.

You have previously filed two appeals regarding your coverage for March and April 2016. A hearing was scheduled for you, but you failed to appear and took no action regarding the subsequent dismissal. Because you failed to act, that dismissal became final and is no longer reviewable.

Your most recent appeal was filed on May 19, 2017, objecting to the start date of May 1, 2016 for you and your spouse's coverage.

The notices that addressed the start date of your coverage on May 1, 2016 were issued in April 2016. Individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of the effective date of your Essential Plan, as confirmed in the April 1, 2016 enrollment confirmation notice, an appeal should have been filed no later than May 31, 2016. Although two appeals regarding coverage for the months of March and April 2016 were filed in April 2016, those appeals were dismissed on October 6, 2016, because you failed to appear for the scheduled telephone hearing. Furthermore, there is no evidence in the record that any written request to vacate the dismissal was ever filed on your behalf.

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The appeal you have most recently filed is only a refiling of a prior appeal that has already been dismissed and is not reviewable, and further is not timely filed with regard to any notice from April 2016.

Therefore, your appeal regarding the effective date of the Essential Plan you and your spouse enrolled in is invalid and is DISMISSED.

## **Decision**

Your appeal of the April 1, 2016 enrollment confirmation notice is untimely and is DISMISSED.

**Effective Date of this Decision:** September 19, 2017

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

NYSOH Appeals Unit is without jurisdiction to review the effective date of your Essential Plan because you failed to timely appeal on that issue.

## **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:

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).

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**

Your appeal of the April 1, 2016 enrollment confirmation notice is untimely and is **DISMISSED**.

NYSOH Appeals Unit is without jurisdiction to review the effective date of your Essential Plan because you failed to file a timely appeal on that issue.

### **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)**

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 sre wo, fre 1-855-355-5777. ye b e tumi ama wo obi a okyer e 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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