



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

## Notice of Decision

Decision Date: September 13, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019460

[REDACTED]

Dear [REDACTED],

On August 29, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 2, 2017 plan enrollment 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 13, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019460



## Issue

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

Did NY State of Health (NYSOH) properly determine that your enrollment in your Essential Plan was effective July 1, 2017?

## Procedural History

On December 20, 2016, NYSOH received your application for financial assistance with health insurance.

On December 21, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan, effective February 1, 2017 with no monthly premium (free). The notice informed you that you needed to next pick a health plan and directed you to a section in the notice on how to do so.

On June 2, 2017, NYSOH issued a plan enrollment notice confirming your selection of an Essential Plan on June 1, 2017, with an enrollment start date of July 1, 2017.

Also on June 2, 2017, NYSOH issued an appeal notice acknowledging your June 1, 2017 request for review of the July 1, 2017 enrollment start date of your Essential Plan insofar as it did not begin earlier.

On August 29, 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.

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).

## Findings of Fact

A review of the record supports the following findings of fact:

- 1) According to your NYSOH account, your coverage with your Fidelis Care Essential Plan 1 ended on November 30, 2016, because you did not pay your insurance bill by the payment deadline. You confirmed you were aware of this information.
- 2) Based on your December 20, 2016 update to your online application, you were next determined eligible for the Essential Plan on December 21, 2016, with an effective date of February 1, 2017.
- 3) You testified that you did not know that you had to pick a plan at that time.
- 4) According to your NYSOH account, you receive communications from NYSOH by regular mail.
- 5) You testified that you did not receive any notices in the mail telling you that you needed to update your application in order to pick a plan and just assumed you had been re-enrolled in the same Fidelis Care Essential Plan since you still had an insurance card.
- 6) You testified that sometimes you get other people's mail in your apartment complex and this could have happened with the December 21, 2016 notice.
- 7) No notices sent to you at the mailing address listed on your NYSOH account have been returned as undeliverable.
- 8) You testified that you did not know that you needed to update your account until you presented at an [REDACTED] at a [REDACTED] on [REDACTED] [REDACTED] or [REDACTED] and were told you had no health insurance.
- 9) According to your NYDOH account, on June 1, 2017, you selected an Essential Plan 2 and were enrolled with a July 1, 2017 start date.
- 10) You testified that you are seeking to have coverage in the Essential Plan for May 31, 2017 or June 1, 2017, to cover your medical expenses.

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

## **Applicable Law and Regulations**

### Essential Plan – Enrollment Start 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 under review is whether NYSOH properly determined that your enrollment in your Essential Plan was effective July 1, 2017.

You were originally found eligible for the Essential Plan effective February 1, 2017, and were informed by the December 21, 2016 eligibility determination notice that you needed to pick a plan.

You testified that you did not receive any notice from NYSOH telling you that you needed to pick a plan, that any such notice might have been mixed up on someone else's mail at your apartment complex, and/or you assumed you would be automatically re-enrolled in the same Essential Plan that ended on November 30, 2017, since you still had an insurance card.

As to your contention that the mail might have been mixed up with someone else's mail at your apartment complex, you testified and your NYSOH account confirms that you elected to receive notifications by regular mail. There is no evidence in the record that any notices that were sent to your mailing address were returned as undeliverable by someone else. As such, the December 21, 2016 eligibility determination notice informing you to pick a plan and how to do so, is deemed sent and received.

As to your contention that you assumed your coverage in your Essential Plan that ended as of November 30, 2016, would automatically resume, there is no evidence in the record or law to support your position. In fact, you testified that you were aware that your coverage in your previous Essential Plan 1 ended as of November 30, 2016, because you did not pay the monthly premium by the payment deadline. Possessing an insurance card for coverage in a health plan that you knew ended on November 30, 2016, is inadequate to shift responsibility to NYSOH. In addition, your eligibility for the level of Essential Plan coverage changed from Essential Plan 1 with a monthly premium to the Essential Plan 2 with no premium.

Therefore, the record reflects that NYSOH properly notified you of the need to pick a plan for coverage in an Essential Plan to begin, as set forth in the December 21, 2016 eligibility determination notice. Further, the record is devoid of any evidence that could reasonably be construed to have led you to believe that your coverage in an Essential Plan 1 would automatically resume.

Next, the record shows that on June 1, 2017, you updated the information in your NYSOH account and selected an Essential Plan 2.

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.

Since you selected your Essential Plan on June 1, 2017, it must take effect on the first day of the following after June 1, 2017; that is, on July 1, 2017.

Therefore, NYSOH's June 2, 2017 plan enrollment notice is AFFIRMED because your enrollment in the Essential Plan properly began on July 1, 2017.

## **Decision**

The December 21, 2016 eligibility determination notice properly notified you of the need to pick a plan for coverage in an Essential Plan to begin.

The June 2, 2017 plan enrollment notice is AFFIRMED.

**Effective Date of this Decision:** September 13, 2017

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

This decision does not change your eligibility for or enrollment in an Essential Plan.

The effective enrollment start date of your Essential Plan 2 is July 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 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).

## **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 December 21, 2016 eligibility determination notice properly notified you of the need to pick a plan for coverage in an Essential Plan to begin.

The June 2, 2017 plan enrollment notice is AFFIRMED.

This decision does not change your eligibility for or enrollment in an Essential Plan.

The effective enrollment start date of your Essential Plan 2 is July 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।

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).

## **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.

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).