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

Notice of Decision

Decision Date: January 12, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000023601

[redacted]

[redacted]

On December 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 17, 2017 disenrollment notice and October 24, 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: January 12, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000023601

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Issues

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

> Did NY State of Health properly disenroll you and your spouse from your Essential Plan for non-payment of premium, effective October 1, 2017?
>
> Did NY State of Health properly determine that your and your spouse's enrollment in an Essential Plan was next effective December 1, 2017?

Procedural History

On September 12, 2017, NY State of Health (NYSOH) issued an eligibility determination notice, based on your September 11, 2017 application, stating that you and your spouse were eligible to enroll in the Essential Plan with a $20.00 premium per month for a limited time, effective October 1, 2017. The notice directed you to provide proof of your household income by December 10, 2017.

On September 13, 2017, NYSOH issued a notice stating the income documentation reviewed did not confirm the information in your application. The notice directed you to provide proof of your household income by December 10, 2017.

On September 15, 2017, NYSOH issued a plan enrollment notice confirming your and your spouse's enrollment in an Essential Plan, effective October 1, 2017.

On September 16, 2017, NYSOH issued an eligibility determination notice stating

you and your spouse were eligible to enroll in the Essential Plan at $20.00 per month each, effective October 1, 2017.

Also on September 16, 2017, NYSOH issued a plan enrollment notice, based on your plan selection on September 15, 2017, stating that you and your spouse were enrolled in an Essential Plan, and that your plan would start October 1, 2017.

On October 17, 2017, NYSOH issued a disenrollment notice stating your and your spouse's coverage in your Essential Plan would end on October 1, 2017, because you did not pay your insurance bill by the payment deadline.

On October 23, 2017, you and your spouse were re-enrolled in an Essential Plan with an effective start date of December 1, 2017.

On October 23, 2017, you spoke to NYSOH's Account Review Unit and appealed your and your spouse's disenrollment from your Essential Plan for non-payment of premium, effective October 1, 2017, and the start date of your enrollment in the Essential Plan insofar as it did not begin October 1, 2017.

On October 24, 2017, NYSOH issued a plan enrollment notice confirming you and your spouse's enrollment on October 23, 2017 in an Essential Plan with an effective start date of December 1, 2017.

On December 18, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open 15 days for you to provide supporting documentation.

On December 18, 2017, you uploaded to your NYSOH account two documents as your supporting documentation [redacted] This documentation has been made part of the record as (Appellant's Exhibit 1). The record was closed that day.

Findings of Fact

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

1) You submitted an application to NYSOH for financial assistance on September 15, 2017. You and your spouse were determined eligible for the Essential Plan effective October 1, 2017.

2) You enrolled yourself and your spouse into an Essential Plan on September 15, 2017, with an enrollment start date of October 1, 2017.

3) You testified you did not receive an invoice in the mail or a bill for your October 2017 premium.

4) You testified you spoke with representatives of your health plan who explained they sent you an October 2017 invoice.

5) You testified that, after speaking with your health plan representatives, they told you they were going to backdate your and your spouse's coverage in your Essential Plan to October 1, 2017.

6) You enrolled yourself and your spouse back into an Essential Plan on October 23, 2017, with an enrollment start date of December 1, 2017.

7) You testified that you wanted your and your spouse's enrollment in an Essential Plan to begin on October 1, 2017, because you do not want to have a gap in coverage.

8) You testified you did not incur medical bills during the months of October 2017 and November 2017.

9) You testified you had employer sponsored insurance which was ending October 1, 2017.

10) You provided copies of your certificate of group health plan coverage with Empire Blue Cross Blue Shield, your employer sponsored insurance, showing an end date of October 1, 2017. You also provided a confirmation page for payment history and invoices from your Essential Plan, which invoices were dated of October 24, 2017 relative to your December 1, 2017 coverage and October 31, 2017 relative to your retroactive enrollment (*see* Appellant's Exhibit 1).

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 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 and your spouse's enrollment in your Essential Plan for non-payment of premium effective, October 1, 2017.

You and your spouse were enrolled in an Essential Plan with an effective date of October 1, 2017

On October 17, 2017 NYSOH issued a notice stating you and your spouse were disenrolled from your Essential Plan for non-payment of premiums, effective October 1, 2017. The notice stated this was because you did not pay your insurance bill by the payment deadline. You testified you never received an invoice from your Essential Plan.

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 or not you and your spouse were properly terminated from your Essential Plan for non-payment of premiums. Therefore, your appeal of the October 17, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

It appears from the payment history and invoices you provided that EmblemHealth agreed to allow you to enroll in your Essential Plan retroactively. EmblemHealth may be able to help you with confirming your retroactive enrollment for October 2017 and November 2017, in that health plan. If you have not already been assisted with your coverage issue for those months, please contact 1-888-447-7703.

In addition, since your issue concerns a health insurer and/or payment, reimbursement, coverage, benefits, rates and premiums, you can contact NY Department of Financial Services at their Consumer Hotline at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30 PM); or locally to (212) 480-6400; or you can file a complaint at http://www.dfs.ny.gov/consumer/fileacomplaint.htm.

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

You testified, and the record indicates, that you updated your NYSOH application on October 23, 2017. As a result, you and your spouse were found eligible for the Essential Plan as of December 1, 2017 and enrolled into a plan that day.

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 October 23, 2017, you selected an Essential Plan, so your enrollment properly took effect on the first day of the second month following October; that is, on December 1, 2017.

Therefore, the October 24, 2017 plan enrollment notice stating that your and your spouse's enrollment in the Essential Plan was effective December 1, 2017, is correct and must be AFFIRMED.

Decision

Your appeal of the October 17, 2017, disenrollment notice is DISMISSED as a non-appealable issue.

The October 24, 2017 plan enrollment notice is AFFIRMED.

Effective Date of this Decision: January 12, 2018

How this Decision Affects Your Eligibility

Your and your spouse's enrollment in your Essential Plan ended October 1, 2017.

The effective date of your and your spouse's enrollment in your Essential Plan is December 1, 2017.

If You Disagree with this Decision (Appeal Rights)

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your case was decided, the 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
- 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 October 17, 2017, disenrollment notice is DISMISSED as a non-appealable issue.

The October 24, 2017 plan enrollment notice is AFFIRMED.

Your and your spouse's enrollment in your Essential Plan ended October 1, 2017.

The effective date of your and your spouse's enrollment in your Essential Plan is December 1, 2017.

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).

Legal Authority

We are issuing this determination in accordance with 45 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).

A Copy of this Decision Has Been Provided To:

[redacted]

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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 مجانًا.

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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईले बोल्ने भाषामा तपाईलाई नि:शुल्क 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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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