



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

## Notice of Decision

Decision Date: February 05, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024397

[REDACTED]

[REDACTED]

On January 24, 2018 you both appeared by telephone at a hearing on your appeal of NY State of Health's February 25, 2017 plan enrollment notice and November 16, 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: February 05, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024397

[REDACTED]

## Issues

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

Did you timely appeal [REDACTED] enrollment in an Essential Plan 2 with Vision and Dental, effective April 1, 2017?

Did NY State of Health properly determine that [REDACTED] enrollment in an Essential Plan 2 was effective December 1, 2017?

## Procedural History

On February 24, 2017, NY State of Health (NYSOH) received your application for financial assistance. That day a preliminary eligibility determination was prepared finding in part that [REDACTED] was eligible for the Essential Plan, effective April 1, 2017. [REDACTED] was enrolled in an Essential Plan that day with Vision and Dental coverage. Hereinafter, [REDACTED] will be referred to as “you” and “your.”

On February 24, 2017 you appealed the start date of your enrollment in the Essential Plan insofar as it did not begin March 1, 2017.

On February 25, 2017 NYSOH issued an eligibility determination notice, based on your February 24, 2017 application, stating that you were eligible to enroll in the Essential Plan with a \$0.00 premium per month, effective April 1, 2017.

On February 25, 2017, NYSOH issued an enrollment notice confirming in part your enrollment in an Essential Plan 2 with Vision and Dental in the amount of \$31.68 per month, effective April 1, 2017.

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An appeal that was filed on February 24, 2017 as AP000000016231. Due to no response to contacts made by NYSOH, on March 23, 2017, a Notice of Dismissal was issued to you on April 10, 2017. No response was received within 60 days and, on June 9, 2017, your Appeal (AP000000016231) was closed.

On June 13, 2017, NYSOH issued a disenrollment notice stating your coverage with the Essential Plan 2 Vision and Dental would end on May 31, 2017, because the insurance bill was not paid by the payment deadline.

On October 31, 2017, NYSOH issued an eligibility determination notice stating you were eligible to enroll in the Essential Plan at \$0.00 per month, effective December 1, 2017.

On November 15, 2017, you enrolled in an Essential Plan 2 at \$0.00 per month, effective December 1, 2017.

On November 15, 2017, you spoke to NYSOH's Account Review Unit and appealed the fact that you were enrolled in an Essential Plan with Vision and Dental on February 24, 2017, and were disenrolled for non-payment of premium.

Also on November 16, 2017 NYSOH issued a plan enrollment notice, based on your plan selection on November 15, 2017, stating that you were enrolled in an Essential Plan 2 at \$0.00 per month, with a December 1, 2017 enrollment start date.

On January 24, 2018, 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 submitted an application to NYSOH for financial assistance on February 24, 2017.
- 2) You enrolled in an Essential Plan 2 with no monthly premium but with the addition of Vision and Dental coverage for \$31.68 per month.
- 3) According to your NYSOH account, you were disenrolled from your Essential Plan 2 for non-payment of premium effective May 31, 2017.
- 4) You testified it was not your intention to enroll in extra coverage for Vision and Dental with your Essential Plan 2 enrollment on February 24, 2017,

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and that the NYSOH Agent enrolled you in the plan without your knowledge.

- 5) You testified you were not aware you had been disenrolled from your health plan on May 31, 2017.
- 6) You testified you first were aware you had been disenrolled from your health plan in June 2017.
- 7) According to your NYSOH account, you first changed your enrollment to only the Essential Plan 2 without Vision and Dental on November 15, 2017.
- 8) According to your NYSOH account, the first time you requested an appeal regarding the type of coverage you were enrolled in was on November 15, 2017.
- 9) You testified that you are seeking you be re-enrolled in the Essential Plan 2 without Vision and Dental effective June 1, 2017.

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

## **Applicable Law and Regulations**

### Timely Appeal Requests

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)).

### 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

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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 you provided a timely appeal request of your enrollment in an Essential Plan 2 with Vision and Dental, effective April 1, 2017.

On February 25, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in an Essential Plan with Vision and Dental in the amount of \$31.68 per month, effective April 1, 2017.

The record indicates the following: You are appealing the fact that you were enrolled in an Essential Plan 2 with Vision and Dental by a NYSOH agent over the telephone on February 24, 2017. You claim this was done without your knowledge, and resulted in your disenrollment for non-payment of premium effective May 31, 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 enrollment in the Essential Plan 2 with Vision and Dental as stated in the February 25, 2017 plan enrollment notice, an appeal should have been filed by April 26, 2017. According to the credible evidence of record, you did contact NYSOH Account Review Unit on February 24, 2017 and requested an appeal, which was assigned an appeal number of AP000000016231. The issue in that appeal was only the start date of your Essential Plan enrollment, not the type of coverage you enrolled in or premium amount due. Due to no response to contacts made by NYSOH on March 23, 2017, a Notice of Dismissal was issued to you on April 10, 2017. No response was received within 60 days and, on June 9, 2017, your Appeal AP000000016231 was closed.

You testified you were first aware of your disenrollment for non-payment of premium in June 2017. This is after your prior appeal request was closed by NYSOH.

You also did not contact NYSOH Account Review Unit again until November 15, 2017, to file a formal complaint and a formal appeal on this issue. For an appeal to be timely, you would have had to respond to the correspondence from NYSOH regarding AP000000016231, but you did not. Your contact with NYSOH initiated on November 15, 2017, was well beyond 60 days from the February 25, 2017 plan enrollment notice.

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Therefore, there has been no valid timely appeal of the February 25, 2017 plan enrollment notice, and your appeal on the issue of your enrollment in an Essential Plan 2 with Vision and Dental effective April 1, 2017, as stated in that notice, is DISMISSED.

The second issue under review is whether NYSOH properly determined that your enrollment in the Essential Plan 2 was effective December 1, 2017.

You testified, and the record indicates, that you updated your NYSOH application on October 30, 2017. As a result, you were found eligible for the Essential Plan 2 for a cost of \$0.00 per month as of December 1, 2017, and enrolled into a plan on November 15, 2017.

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 November 15, 2017, you selected an Essential Plan 2, so your enrollment properly took effect on the first day of the first month following November; that is, on December 1, 2017.

Therefore, the November 16, 2017 plan enrollment notice stating that your enrollment in the Essential Plan 2 was effective December 1, 2017, is correct and must be AFFIRMED.

## **Decision**

Your appeal on the issue of your enrollment in an Essential Plan 2 with Vision and Dental, effective April 1, 2017, as stated in the February 25, 2017 plan enrollment notice is DISMISSED as untimely.

The November 16, 2017 plan enrollment notice stating that your enrollment in the Essential Plan 2 was effective December 1, 2017, is AFFIRMED.

**Effective Date of this Decision:** February 05, 2018

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

The effective date of your Essential Health Plan 2 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 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 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 on the issue of your enrollment in an Essential Plan 2 with Vision and Dental, effective April 1, 2017, as stated in the February 25, 2017 plan enrollment notice is **DISMISSED** as untimely.

The November 16, 2017 plan enrollment notice stating that your enrollment in the Essential Plan 2 was effective December 1, 2017, is **AFFIRMED**.

The effective date of your Essential Health Plan 2 is December 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&btumi ama wo obi a okyerε 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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