



STATE OF NEW YORK
DEPARTMENT OF HEALTH
PO Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: February 12, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024936

[REDACTED]

[REDACTED]

On February 5, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health’s determinations regarding your eligibility for 2016.

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
 - PO 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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Issues

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

Was your appeal of NY State of Health's (NYSOH) determinations regarding your family's eligibility determinations for the 2016 coverage year timely?

Did NYSOH properly determine that your eligibility for, and enrollment in, your Essential Plan coverage began October 1, 2017?

Procedural History

On November 16, 2015, you updated your application for financial assistance with health insurance through NYSOH. You were found eligible to enroll in a qualified health plan (QHP) and to receive \$0.00 in advance payments of the premium tax credit. Your daughter was found eligible to enroll in a Child Health Plus (CHP) plan, with a monthly premium of \$30.00. This determination was effective January 1, 2016, and you were both subsequently enrolled in health plans for the upcoming year.

Your eligibility was redetermined on March 31, 2016, and the same eligibility determination was issued.

On December 12, 2016, you updated your application, listing your annual household income as \$223,445.08. Your child's eligibility for CHP continued, and you were found eligible to enroll in a full cost QHP.

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On August 23, 2017, you updated your application, and were found eligible to enroll in the Essential Plan, with a \$20.00 monthly premium, effective October 1, 2017. Your child was eligible to enroll in a CHP plan, with a \$9.00 monthly premium. This was formalized in a written notice issued on August 24, 2017.

On August 24, 2017, NYSOH issued an enrollment confirmation notice, stating your child's coverage in her CHP plan was effective October 1, 2017. Also on August 24, 2017, NYSOH issued a notice confirming that your coverage in your QHP would end on September 30, 2017, due to your change in eligibility, and advising you to select a new plan.

Because of a defect in your account, you were not able to select a plan at that time. On October 6, 2017, NYSOH issued a notice of eligibility determination, again stating you were eligible to enroll in the Essential Plan, with a \$20.00 monthly premium. You selected a plan and were enrolled effective November 1, 2017.

On November 28, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in your Essential Plan, requesting it begin on January 1, 2017.

On November 30, 2017, NYSOH issued an enrollment confirmation notice, indicating your enrollment had been backdated to October 1, 2017.

On February 5, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. At that time, you stated that you were still appealing the start date of your coverage in the Essential Plan, and requested that it be effective January 1, 2016. The record was developed during the hearing and closed that same day.

Findings of Fact

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

- 1) You were found eligible to enroll in a QHP for 2016; you were also eligible to receive APTC.
- 2) You were again found eligible to enroll in a QHP effective January 1, 2017, but you were not eligible to receive APTC. This eligibility continued until the end of September 2017.
- 3) You were first found eligible to enroll in the Essential Plan in a notice issued on August 24, 2017. Your eligibility was effective October 1, 2017.

- 4) You were unable to enroll in a plan at that time because of a defect on your account. When you were eventually able to enroll, the effective date of your coverage was November 1, 2017.
- 5) After you appealed, apparently requesting that your coverage in the Essential Plan begin on October 1, 2017, NYSOH reviewed your case and granted this request. However, at your hearing, you stated that you wanted your coverage in your Essential Plan to begin on January 1, 2016.
- 6) The earliest documented contact from you to NYSOH regarding the start of your coverage in the Essential Plan was November 28, 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) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (4) 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)).

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 www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf).

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

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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 determinations regarding your family's eligibility determinations for the 2016 coverage year was timely.

NYSOH's records reflects that the first time you called NYSOH to file a complaint regarding the start date of your Essential Plan coverage was November 28, 2017, at which time you requested a formal appeal and requested that your coverage be backdated to January 1, 2017.

You first appealed your eligibility for 2016 when you raised it at the hearing held on February 5, 2018.

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

An appeal filed on November 28, 2017 would only be timely with respect to determinations issued within the previous 60 days. Therefore, this appeal can only be considered timely for determination issued on or after September 29, 2017.

The Appeals Unit finds that your appeal is untimely with regard to the notices issued by NYSOH on November 22, 2015; April 1, 2016; October 21, 2016; December 13, 2016; March 22, 2017; and August 24, 2017.

As such there has been no timely appeal of any determination regarding your coverage for 2016, and insofar as your appeal address your coverage in 2016, it is **DISMISSED**.

The second issue under review is whether NYSOH properly determined that your coverage in your Essential Plan was effective no earlier than October 1, 2017.

According to your account, you were first found eligible to enroll in the Essential Plan in the notice of eligibility determination issued on August 24, 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.

You were prevented by a defect in your account from selecting a plan when you became eligible to do so in August 2017. Had you been allowed to select a plan when you updated your application on August 23, 2017, your coverage could have started on the first day of the second following month; that is, on October 1, 2017.

Therefore, the November 30, 2017 enrollment confirmation notice, that corrected your coverage to begin on October 1, 2017 is AFFIRMED.

Decision

The November 30, 2017 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: February 12, 2018

How this Decision Affects Your Eligibility

Your eligibility for, and enrollment in, your Essential Plan coverage properly became effective on October 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 appeal 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

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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:
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PO Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The November 30, 2017 enrollment confirmation notice is **AFFIRMED**.

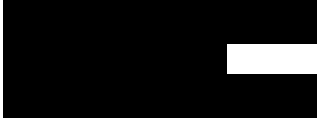
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Your eligibility for, and enrollment in, your Essential Plan coverage properly became effective on October 1, 2017.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:



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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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