



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

Notice of Decision

Decision Date: April 24, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027746

[REDACTED]

[REDACTED]

On April 4, 2018 you appeared by telephone at a hearing on your appeal of NY State of Health's August 15, 2017 disenrollment notice and the January 24, 2018 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 Date: April 24, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027746

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Issues

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

Was your appeal of NY State of Health's August 15, 2017 disenrollment notice, stating that you were disenrolled from your Essential Plan effective July 31, 2017, timely?

Did NY State of Health properly determine that your reenrollment in the Essential Plan was effective March 1, 2018?

Procedural History

On February 9, 2017, NY State of Health (NYSOH) issued an eligibility redetermination notice, stating that you were eligible to enroll in the Essential Plan, effective March 1, 2017.

On February 15, 2017, NYSOH issued an enrollment confirmation notice, stating that you were enrolled in an Essential Plan, effective March 1, 2017.

On August 15, 2017, NYSOH issued a disenrollment notice, stating that your enrollment in your Essential Plan was terminated, effective July 31, 2017, because you did not pay your insurance bill by the payment deadline.

On January 23, 2018, NYSOH received your updated application for financial assistance with health insurance.

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On January 24, 2018, NYSOH issued an eligibility redetermination notice, based on the January 23, 2018 application, stating that you were eligible to enroll in the Essential Plan, effective March 1, 2018.

Also, on January 24, 2018, NYSOH issued an enrollment confirmation notice, based on a plan selection made January 23, 2018, stating that you were enrolled in an Essential Plan, effective March 1, 2018.

Finally, on January 24, 2018, you spoke to NYSOH's Account Review Unit and appealed insofar as your reenrollment in the Essential Plan was effective as of March 1, 2018 and not August 1, 2017.

On April 4, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open for 15 days, to April 19, 2018, to allow you the opportunity to submit proof that you had paid your health insurance premiums for all of 2017. No documentation was received within the allotted time. The record is now closed.

Findings of Fact

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

- 1) You testified that you believed that you were enrolled in your Essential Plan for all of 2017.
- 2) You testified that you forgot to pay the premium for your Essential Plan in July 2017, but that the plan provider had permitted you to pay for July and August of 2017 together.
- 3) You testified that you could not recall when you became aware that you had been disenrolled from your plan.
- 4) The record reflects that you were disenrolled from your Essential Plan, effective July 31, 2017.
- 5) You testified that you did not receive the August 15, 2017 disenrollment notice informing you that your enrollment would terminate effective July 31, 2017 because you did not pay your insurance bill by the payment deadline.
- 6) You testified that when you became aware that you had been disenrolled you contacted your Essential Plan provider and they informed you that you had paid your premiums and that you were enrolled through 2017.

- 7) On January 23, 2018, you submitted an application for financial assistance with health insurance and selected a plan that same day.

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) an eligibility determination for an exemption; (4) a failure by the Exchange 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)).

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)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(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

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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 NY State of Health's August 15, 2017 disenrollment notice, stating that you were disenrolled from your Essential Plan effective July 31, 2017, was timely.

On February 15, 2017, you were enrolled in an Essential Plan, effective March 1, 2017.

You testified that you paid your premiums to your Essential Plan for all of 2017. However, you forgot to pay in July, but the plan provider permitted you to pay two months together.

On August 15, 2017, NYSOH issued a notice stating that you were disenrolled from your Essential Plan for non-payment of premiums, effective July 31, 2017. You submitted your appeal on January 24, 2018.

Individual applicants and enrollees must request a hearing within sixty (60) days of the due date of their notice of eligibility determination by NYSOH. For an appeal to have been valid on the issue of your disenrollment from the Essential Plan, as indicated in the August 15, 2017 notice, an appeal should have been filed by October 14, 2017. The record reflects that you filed a formal appeal on January 24, 2018, which is well outside the 60-day deadline for an appeal to be timely. However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances.

You testified that you believed that you were enrolled in your Essential Plan for all of 2017 and that you had confirmed the same with your health plan. You further testified that you had paid all the premiums for 2017 and that you would be able to submit proof of such. A belief that you were enrolled in the plan would be an exceptional circumstance, as you would not have been aware that there was a need to appeal. However, although the record was left open for 15 days to allow you time to submit proof that all 2017 premiums were paid, and thus you believed that you were enrolled, no documentation was submitted during the allotted time. Therefore, there is no evidence in the record that the failure to timely submit the appeal was due to exceptional circumstances in this case.

Therefore, your appeal of NYSOH's August 15, 2017 disenrollment notice is **DISMISSED** as untimely because the appeal was not submitted in a timely

manner and there is no evidence in the record supporting that the failure to submit in a timely manner was due to exceptional circumstances. It is noted that, since non-payment of premiums is not an issue the Appeals Unit has authority to review, had the appeal been submitted in a timely manner the Appeals Unit could not reach the merits as to whether or not you were properly terminated from your Essential Plan and the issue would have been dismissed as a non-appealable issue.

The second issue is whether NYSOH properly determined that your reenrollment in your Essential Plan was effective March 1, 2018.

You contacted NYSOH on January 23, 2018 to reenroll into an Essential Plan and you selected a plan that same day.

The date on which an Essential Plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and 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 and the end of the month goes into effect on the first day of the second following month.

As you selected a plan on January 23, 2018, your reenrollment should have taken effect the first day of the second following month after January 23, 2018; that is, on March 1, 2018.

Therefore, the January 24, 2018 enrollment confirmation notice stating that your reenrollment in your Essential Plan was effective March 1, 2018 is **AFFIRMED**.

Decision

Your appeal of NYSOH's August 15, 2017 disenrollment notice is **DISMISSED** as untimely.

The January 24, 2018 enrollment confirmation notice is **AFFIRMED**.

Effective Date of this Decision: April 24, 2018

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

Your reenrollment in an Essential Plan was effective March 1, 2018.

This decision has no effect on any subsequent actions taken by NYSOH or your Essential Plan.

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

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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 NYSOH's August 15, 2017 disenrollment notice is **DISMISSED** as untimely.

The January 24, 2018 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your eligibility.

Your reenrollment in an Essential Plan was effective March 1, 2018.

This decision has no effect on any subsequent actions taken by NYSOH or your Essential Plan.

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 bεtumi 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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