



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

Notice of Decision

Decision Date: May 6, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006190

[REDACTED]

Dear [REDACTED],

On May 2, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 20, 2015 eligibility redetermination regarding your spouse.

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 NY State of Health 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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Issue

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

Whether NY State of Health properly re-enrolled your spouse automatically in an MVP silver-level qualified health plan at full cost, effective January 1, 2016?

Procedural History

According to your NY State of Health (NYSOH) account, your spouse was eligible for \$280.00 monthly in advance payments of the premium tax credit (APTC), effective February 1, 2015. He was enrolled in a silver-level MVP qualified health plan (QHP) and received APTC from March 1, 2015 through December 31, 2015.

On October 24, 2015, NYSOH issued a renewal notice that stated, based on information from federal and state data sources, a decision about whether or not your spouse qualified for financial assistance could not be made. That notice instructed you to update your NYSOH account by December 15, 2015 and informed you that, if you missed this deadline, the financial assistance your spouse was then receiving might end.

Your NYSOH account was not updated by December 15, 2015. As a result, your spouse's eligibility was preliminarily redetermined on December 20, 2015 and he was found eligible to purchase a QHP at full cost, effective January 1, 2016.

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On December 21, 2015, NYSOH issued an eligibility redetermination notice that was consistent with the December 20, 2015 preliminary redetermination. The notice further explained that your spouse was eligible to purchase a qualified health plan at full cost and no longer eligible for financial assistance because you did not respond to the renewal notice and did not complete the renewal within the required timeframe.

On December 23, 2015, NYSOH issued a year-end disenrollment notice confirming that your spouse's 2015 coverage with MVP would end effective December 31, 2015.

Also on December 23, 2015, NYSOH issued an enrollment notice confirming that your spouse was enrolled in an MVP silver-level QHP at full cost of \$503.54 per month with a plan enrollment start date of January 1, 2016. The notice further stated that you would receive an invoice from the health plan and must pay the monthly premium to start and keep your spouse's coverage.

On January 8, 2016, NYSOH issued a disenrollment notice that stated your January 7, 2016 request to end your spouse's health insurance coverage with MVP had been processed and he will no longer have coverage under his MVP plan as of January 31, 2016.

On January 13, 2016, you spoke with the Marketplace's Account Review Unit and requested an appeal insofar as you did not elect and did not want or need health insurance coverage for your spouse through NYSOH with MVP for the month of January 2016.

On May 2, 2016, 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 support the following findings of fact:

- 1) You testified that when you completed your NYSOH application for 2015, you elected not to have your spouse automatically re-enrolled in 2016 and told the NYSOH representative not to check the box for his auto-enrollment upon renewal because you knew you were not going to be taking out insurance for him through NYSOH in 2016.
- 2) You testified that in 2015, you authorized MVP to automatically withdraw the monthly premium of \$166.30 from your bank account, after the monthly APTC amount of \$280.00 had been applied.

- 3) You testified that you contacted MVP during December 2015 and cancelled your spouse's health insurance coverage effective December 31, 2015.
- 4) You testified that an MVP representative confirmed that your spouse's health insurance coverage would end effective December 31, 2015.
- 5) You testified that you assumed that, by cancelling your spouse's coverage with MVP as of December 31, 2015, the automatic withdrawal authorization you had given MVP in 2015 would also be cancelled.
- 6) You testified that, without your knowledge or consent, NYSOH automatically re-enrolled your spouse as of January 1, 2016, in the same MVP silver-level QHP he had in 2015, but at full cost.
- 7) You testified that, in January 2016 and without your knowledge and consent, MVP automatically withdrew \$503.54 from your bank account for the January 2016 premium.
- 8) You testified that you do not remember receiving a premium invoice for January 2016 or a welcome package or other communication from MVP regarding coverage for your spouse in 2016, and would have reacted if you had.
- 9) You testified that your bank account was overdrawn as a result of MVP automatically withdrawing funds in the beginning of January 2016 without your knowledge and consent and you had to pay approximately \$114.00 in bank charges (\$38.00 x 3 overdrafts).
- 10) You testified that you contacted NYSOH on January 13, 2016 after receiving notices that your bank account had been overdrawn and were told your spouse's coverage could only be cancelled as of January 31, 2016, and you were responsible for the January 2016 premium.
- 11) You testified that your spouse did not receive any medical treatment or services in January 2016 such that no claims were filed with MVP for that month.
- 12) You testified that you did not want or need health insurance for your spouse through NYSOH in 2016 because you had always planned on obtaining health insurance coverage for him outside NYSOH for 2016.
- 13) You are seeking reimbursement for the premium that MVP withdrew for January 2016 premium and for the bank charges you incurred

because of the unauthorized withdrawal by MVP that resulted in overdrafts.

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

Applicable Law and Regulations

Termination of Coverage

The Marketplace may initiate termination of an enrollee's coverage in a qualified health plan and must permit a qualified health plan issuer to terminate such coverage: (1) When the enrollee is no longer eligible for coverage in a qualified health plan through the Marketplace; or (2) The enrollee's coverage is cancelled due to non-payment of premiums (45 CFR § 155.430(b)(2)(i) and (ii)).

Additionally, an enrollee may initiate the termination of his or her own coverage (45 CFR § 155.430(b)(1)).

Legal Analysis

The only matter at issue is whether your spouse had coverage through NYSOH in an MVP silver-level QHP at full cost of \$503.54 per month from January 1, 2016 to January 31, 2016.

The record indicates that your spouse was enrolled in an MVP silver-level QHP in 2015.

You credibly testified that you contacted MVP directly in December 2015 to terminate your spouse's QHP effective December 31, 2015, and were told by an MVP representative that your request had been processed. You also credibly testified that you did not intend to pay the premium for January 2016 because you believed you had successfully cancelled your spouse's coverage as of December 31, 2015, and had assumed that by cancelling your spouse's coverage that the direct withdrawal authorization you had given to MVP in 2015 would also end.

You further testified that you do not recall receiving an invoice for the January 2016 premium or a welcome package or other communication from MVP regarding coverage for your spouse in 2016, and would have reacted if you had. You testified that you only became aware of your spouse being automatically re-enrolled in the MVP silver-level QHP as of January 1, 2016 at full cost, when you learned that your bank account had been overdrawn three times due to MVP taking a direct withdrawal for the January 2016 premium.

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You testified and your NYSOH account reflects that you contacted NYSOH on January 13, 2016, and were told you could disenroll your spouse, that his disenrollment would be effective January 31, 2016, and that you were responsible for the premium for that month. You testified that you never intended to re-enroll your spouse for 2016 and that you had explicitly stated you did not want your spouse automatically re-enrolled in 2016 when you first applied for coverage for him in 2015. You also credibly testified that your spouse did not receive any medical treatment or services in January 2016 and, therefore, there were no claims to submit to MVP.

Although your spouse's coverage started because MVP performed a direct withdrawal from your bank account, the record reflects this was done without your knowledge or consent and that the direct withdrawal resulted in his January 2016 coverage being activated against your wishes. You also credibly testified that it was never your intent to re-enroll him in 2016 and that you had taken what you believed to be appropriate action by notifying MVP in December 2015 of your desire to terminate his coverage as of December 31, 2015, which you testified was confirmed by an MVP representative.

But-for NYSOH automatically re-enrolling your spouse and MVP's actions in directly withdrawing the January 2016 premium, neither of which was with your knowledge or consent, your spouse's coverage would not have started without a premium payment. The record reflects you never intended to make that premium payment for coverage to start. Therefore, based on the totality of the circumstances, your spouse's coverage in the MVP silver-level QHP should not have started on January 1, 2016 and you should not have been charged a premium for January 2016.

Therefore, the December 21, 2015 eligibility redetermination notice and December 23, 2015 enrollment notice are RESCINDED.

Since your remaining issue concerns reimbursement of the premium withdrawn by MVP for January 2016, you can contact MVP directly to request reimbursement. If MVP does not reimburse you, 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 for assistance; or you can file a complaint at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>

Decision

The December 21, 2015 eligibility redetermination notice and December 23, 2015 enrollment notice are RESCINDED.

Effective Date of this Decision: May 6, 2016

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How this Decision Affects Your Eligibility

Your spouse did not have health insurance coverage with MVP as of January 1, 2016 through NYSOH.

As a result, you and your spouse are not responsible for the premium invoiced for that month.

Since your remaining issue concerns reimbursement of the premium withdrawn by MVP for January 2016, you can contact MVP directly to request reimbursement. If MVP does not reimburse you, 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 for assistance; or you can file a complaint at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services 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 after the date 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 U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

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

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- By mail at:
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Summary

The December 21, 2015 eligibility redetermination notice and December 23, 2015 enrollment notice are RESCINDED.

Your spouse did not have health insurance coverage with MVP as of January 1, 2016 through NYSOH.

As a result, you and your spouse are not responsible for the premium invoiced for that month.

Since your remaining issue concerns reimbursement of the premium withdrawn by MVP for January 2016, you can contact MVP directly to request reimbursement. If MVP does not reimburse you, 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 for assistance; or you can file a complaint at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>

Legal Authority

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

A Copy of this Decision Has Been Provided To:

