



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

Notice of Decision

Decision Date: July 1, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006281

[REDACTED]

Dear [REDACTED]

On May 6, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 5, 2016 notice of enrollment.

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).

This page intentionally left blank.



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

Decision

Decision Date: July 1, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006281

[REDACTED]

Issue

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

Did NY State of Health properly determine the enrollment of you and your spouse in the silver-level qualified health plan issued by BlueShield of Northeastern New York was effective February 1, 2016?

Procedural History

On December 15, 2015, NY State of Health (NYSOH) received a revised application.

On December 16, 2015, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were eligible to purchase a qualified health plan (QHP) at full cost. This eligibility was effective January 1, 2016.

Also on December 16, 2015, NYSOH issued a notice of enrollment confirming the selection and enrollment of you and your spouse in a bronze-level QHP issued by BlueShield of Northeastern New York (BlueShield) on December 15, 2015, at a premium rate of \$727.18 per month. Coverage under this plan for you and your spouse was due to begin, effective January 1, 2016, provided you paid the necessary premium amount.

On January 5, 2016, NYSOH issued an additional notice of enrollment confirming the selection and enrollment of you and your spouse in a silver-level QHP issued by BlueShield on January 4, 2016, at a premium rate of \$950.22 per month.

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).

Coverage under this plan for you and your spouse was due to begin effective February 1, 2016.

Also on January 5, 2016, NYSOH issued a disenrollment notice confirming that your request to end your bronze-level QHP coverage with BlueShield was received on January 4, 2016. The notice further confirmed that coverage for you and your spouse under this plan would end, effective January 31, 2016.

On January 19, 2016, you spoke to NYSOH's Account Review Unit and appealed the January 5, 2016 enrollment confirmation notice insofar as coverage for you and your spouse under the silver-level QHP issued by BlueShield could take effect no earlier than February 1, 2016.

On March 16, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were eligible to purchase a qualified health plan at full cost. This eligibility was effective March 1, 2016.

Also on March 16, 2016, NYSOH issued a notice of enrollment confirming the reenrollment of you and your spouse in the bronze-level QHP issued by BlueShield on March 15, 2016, at a premium rate of \$727.18 per month. Coverage under this plan for you and your spouse was due to begin, effective April 1, 2016, provided you paid the necessary premium amount.

Finally, on March 16, 2016, NYSOH issued a disenrollment notice confirming that your request to end your silver-level QHP coverage with BlueShield was received on March 15, 2016. The notice further confirmed that coverage for you and your spouse under this plan would end, effective March 31, 2016.

On May 6, 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 submitted a non-financial assistance application to NYSOH on December 15, 2015.
- 2) You testified, and the record reflects, that you selected a bronze-level issued by BlueShield on December 15, 2015. Enrollment for you and your spouse in this plan became effective January 1, 2016.
- 3) You testified, and the record reflects, on or about January 4, 2016, you contacted a NYSOH representative to change the level of your BlueShield

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).

plan coverage from bronze to silver. You further testified that during the phone call with that NYSOH representative, on three separate occasions, confirmed that the silver-level coverage of your BlueShield plan would be effective as of January 4, 2016.

- 4) You testified that you were specifically sought to revise the coverage level of BlueShield plan in anticipation of a medical procedure that you would have during the month of January 2016. You were seeking this increase in coverage in order to decrease the deductible to which you would have been exposed.
- 5) The notice of enrollment issued on January 5, 2016 reflected that your silver-level QHP coverage with BlueShield would begin February 1, 2016, not January 4, 2016.
- 6) You testified that on January 19, 2016, you contacted the NYSOH and spoke to a supervisor who informed you that the representative who confirmed to you the silver-level QHP coverage with BlueShield would begin on January 4, 2016 made a mistake, but nothing could be done.
- 7) Your silver-level QHP coverage with BlueShield was in effect from February 1, 2016 through March 31, 2016.
- 8) After receiving a special enrollment period, you ultimately selected to reenroll in the bronze-level QHP with BlueShield on or about March 15, 2016. Your coverage under the bronze-level QHP with BlueShield began effective April 1, 2016.
- 9) You testified that you made all premium payments during 2016.
- 10) You testified that you were seeking to have either the silver-level plan effective date to be upheld as January 4, 2016 or, in the alternative, to have the bronze-level plan coverage be backdated from April 1, 2016 to February 1, 2016, such that the bronze-level plan coverage would be continuous during 2016.
- 11) You testified that had several procedures during February and March of 2016, and amounts paid by you in connection with those procedures have not been counted against the bronze-level deductible. As a result, since you switched plans, you have effectively been held subject to two separate deductible amounts during the respect plan coverage dates.

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

Applicable Law and Regulations

Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health 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)). 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 sole issue under review is whether NYSOH properly determined the enrollment of you and your spouse in the silver-level qualified health plan issued by BlueShield of Northeastern New York was effective as of February 1, 2016.

The record shows that on January 4, 2016 you updated the information in your NYSOH account and submitted a request to change your plan level with BlueShield from bronze to silver. On January 5, 2016, NYSOH issued a notice of enrollment stating that your enrollment in your in the silver-level plan was effective February 1, 2016.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month. Additionally, the date on which a qualified health 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 fifteenth day of a month goes into effect on the first day of the following month.

Since your plan selection was revised on January 4, 2016, that plan change would take effective on first day of the month following January 4, 2016, or February 1, 2016. However, you testified that you made the switch in plans solely upon the erroneous information provided NYSOH representative that the effective date of your silver-level plan would be January 4, 2016, rather than February 1, 2016. While we find such testimony credible, the regulations do not permit NYSOH to backdate your coverage under the silver-level plan to January 1, 2016.

You testified that, in the alternative, you were seeking to have your bronze-level plan start backdated from April 1, 2016 to February 1, 2016, such that your bronze-level plan coverage with BlueShield would be continuous during 2016.

We find sufficient evidence that you justifiably relied on the information provided by the NYSOH representative in selecting the silver-level plan on January 4, 2016, and that you would not have changed your plan level had you not been given misinformation. Accordingly, the notice of enrollment issued on January 5, 2016 is RESCINDED.

Furthermore, the notice of enrollment issued on March 16, 2016 reflecting that you had selected to reenroll in the bronze-level plan with BlueShield is MODIFIED to state that your coverage under that plan begins, effective February 1, 2016, so that for 2016 you will have been in a single plan for the whole year, with one deductible, without interruption.

Your case is RETURNED to NYSOH to (1) effectuate the above alterations to your account and (2) to work with BlueShield in reimbursing you the difference in premium amount for February and March 2016, if necessary, and to recalibrate the deductible based on the now continuous bronze-level coverage during 2016.

Decision

The January 5, 2016 notice of enrollment is RESCINDED.

The March 16, 2016 notice of enrollment is MODIFIED to state that your bronze-level coverage with BlueShield begins, effective February 1, 2016.

Your case is RETURNED to NYSOH to (1) effectuate the above alterations to your account, and (2) to facilitate with BlueShield in reimbursing you the difference in premium amount for February and March 2016, and to recalibrate the deductible based on the now continuous bronze-level coverage during 2016.

Effective Date of this Decision: July 1, 2016

How this Decision Affects Your Eligibility

You are no longer covered under the silver-level QHP with BlueShield during February and March of 2016.

The start of your coverage under the bronze-level QHP with BlueShield is backdated to February 1, 2016.

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 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 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
- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The January 5, 2016 notice of enrollment is **RESCINDED**.

The March 16, 2016 notice of enrollment is **MODIFIED** to state that your bronze-level coverage with BlueShield begins, effective February 1, 2016.

Your case is **RETURNED** to NYSOH to (1) effectuate the above alterations to your account, and (2) to facilitate with BlueShield in reimbursing you the

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).

difference in premium amount for February and March 2016, and to recalibrate the deductible based on the now continuous bronze-level coverage during 2016.

You are no longer covered under the silver-level QHP with BlueShield during February and March of 2016.

The start of your coverage under the bronze-level QHP with BlueShield is backdated to February 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

