



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

Notice of Decision

Decision Date: May 17, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006322

[REDACTED]

Dear [REDACTED],

On May 11, 2016, your spouse, acting as your Authorized Representative, appeared by telephone at a hearing on your appeal of NY State of Health's January 15, 2016 cancellation 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 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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Decision

Decision Date: May 17, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006322

[REDACTED]

Issue

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

Did NY State of Health properly determine that enrollment for you and your son in their qualified health plan was cancelled effective February 1, 2016?

Procedural History

On January 15, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination stating that you and your son were conditionally eligible to receive up to \$419.00 per month in advance payment of the premium tax credits (APTC) and, if you selected a silver-level qualified health plan, conditionally eligible for cost-sharing reductions (CSR). This eligibility was effective February 1, 2016.

Also on January 15, 2016, NYSOH issued a letter confirming the enrollment of you and your son in a platinum-level qualified health plan (QHP) issued by Oscar, with a monthly premium responsibility of \$685.26, after your APTC of \$419.00 was applied, effective February 1, 2016.

NYSOH received a revised application on January 18, 2016.

On January 19, 2016, NYSOH issued a notice of eligibility redetermination based on the information contained in the January 18, 2016 application. The notice stated that you and your son were conditionally eligible to receive up to \$419.00 per month of APTC and, if you selected a silver-level qualified health plan, conditionally eligible for CSR. This eligibility was effective March 1, 2016.

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Also on January 19, 2016, NYSOH issued a cancellation notice confirming that your request to cancel insurance coverage for you and your son with Oscar was received on January 18, 2016. The notice stated that coverage for you and your spouse was terminated effective February 1, 2016.

Also on January 19, 2016, NYSOH issued a letter confirming the enrollment of you and your son in a silver-level QHP issued by Oscar, with a monthly premium responsibility of \$374.64, after your APTC of \$419.00 was applied, effective March 1, 2016.

On January 20, 2016, your broker, [REDACTED], contacted the NYSOH's Account Review Unit and appealed the cancellation notice insofar as the platinum-level QHP was terminated as of February 1, 2016, leaving you and your son with a one month gap in coverage.

On May 11, 2016, your spouse, [REDACTED] (acting as your Authorized Representative), 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 an application to NYSOH for financial assistance on January 15, 2016.
- 2) Your spouse testified, and the record reflects, that you and your son enrolled in a platinum-level QHP on January 15, 2016. This plan was effective February 1, 2016.
- 3) The platinum-level QHP was cancelled on January 18, 2016, immediately prior to your broker, [REDACTED], revising your application and selecting a silver-level QHP for you and your son, also issued by Oscar.
- 4) You and your son's coverage under the platinum-level QHP was terminated effective February 1, 2016, effecting ending coverage before it began.
- 5) Coverage for you and your son under the silver-level QHP was scheduled to begin March 1, 2016.
- 6) Your spouse testified that after experiencing a great deal of frustration with NYSOH, he elected to enroll both you and your son in an Oscar plan through the private market. Your spouse further testified that you and your

son's coverage through the private market began as of March 1, 2016, and had continued uninterrupted.

- 7) Your spouse testified that you were seeking to reinstate the platinum-level coverage of you and your son's for the month of February 2016, since your son had incurred some out-of-pocket expenses in connection with his hospitalization, which occurred during that month.

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

Applicable Law and Regulations

NYSOH must permit an enrollee to terminate his or her coverage with a qualified health plan, including when an enrollee obtains minimum essential coverage, with appropriate notice to the NYSOH or qualified health plan (45 CFR § 155.430(b)(1), (d)).

For enrollee-initiated terminations, the last day of coverage is either:

- 1) The termination date specified by the enrollee, if the enrollee provides reasonable notice (at least 14 days before the requested termination date);
- 2) Fourteen days after the enrollee requests the termination, if they do not provide reasonable notice; or
- 3) On a date on or after the date the enrollee requests the termination, if the enrollee's qualified health plan issuer and the enrollee agree to such a date

(45 CFR § 155.430(d)(2)(i)-(iii)).

Legal Analysis

The issue under review is whether NYSOH properly determined that enrollment for you and your son in the platinum-level qualified health plan was cancelled effective February 1, 2016.

The record shows that you initially updated your account on January 15, 2016. On that same date, you selected a platinum-level QHP issued by Oscar for you and your son's health coverage. The plan coverage was scheduled to begin effective February 1, 2016

Your application was further revised on January 18, 2016. You were again found eligible for APTC and CSR and, in this case, effective March 1, 2016. Your account reflects that you switched the plan you and your son were enrolled in from a platinum-level QHP to a silver-level QHP, issued by the same insurance carrier, Oscar. The notice of enrollment issued on January 19, 2016 reflected that coverage for you and your son under the silver-level QHP would begin March 1, 2016. However, your platinum-level QHP plan coverage was immediately terminated, effective February 1, 2016, leaving you and your son without coverage during February 2016. The record reflects that your broker, [REDACTED], inadvertently terminated your platinum-level QHP coverage immediately prior to selecting a silver-level QHP for you and your son.

Enrollees must be allowed to terminate their coverage with a qualified health plan if they provide appropriate notice to the Marketplace or to their health plan.

The record reflects that your broker did not request to terminate the health insurance coverage for you and your son through NYSOH until January 18, 2016. Therefore, NYSOH improperly terminated your platinum-level insurance plan coverage with Oscar, effective February 1, 2016, since reasonable notice of 14 days was not provided to NYSOH.

Accordingly, the January 19, 2016 cancellation notice terminating coverage for you and your son under the platinum-level QHP was issued in error, and must be RESCINDED.

Furthermore, your case is RETURNED to NYSOH to reinstate coverage for both you and your son under the platinum-level QHP during the month of February 2016 only, provided that the necessary premium amount is remitted to the insurance carrier, Oscar. We limit your reinstatement to the month of February 2016 because the record reflects that both you and your son have been enrolled in an Oscar plan through the private market as of March 1, 2016.

Decision

The January 19, 2016 cancellation notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate coverage for both you and your son under the platinum-level QHP during the month of February 2016 only, provided that the necessary premium amount is remitted to the insurance carrier, Oscar. We limit your reinstatement to the month of February 2016 because the record reflects that both you and your son have been enrolled in an Oscar plan through the private market as of March 1, 2016.

Effective Date of this Decision: May 17, 2016

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How this Decision Affects Your Eligibility

The enrollment of you and your son in the platinum-level QHP is reinstated solely for the month of February 2016, provided that the necessary premium amount is remitted to the insurance carrier, Oscar.

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
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Albany, NY 12211
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Summary

The January 19, 2016 cancellation notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate coverage for both you and your son under the platinum-level QHP during the month of February 2016 only, provided that the necessary premium amount is remitted to the insurance carrier, Oscar. We limit your reinstatement to the month of February 2016 because the record reflects that both you and your son have been enrolled in an Oscar plan through the private market as of March 1, 2016.

The enrollment of you and your son in the platinum-level QHP is reinstated solely for the month of February 2016, provided that the necessary premium amount is remitted to the insurance carrier, Oscar.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]