



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

## Notice of Decision

Decision Date: May 20, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006384

[REDACTED]

Dear [REDACTED],

On May 16, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 29, 2015 cancellation notice and December 29, 2015 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

Decision Date: May 20, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006384

[REDACTED]

## Issues

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

Did NY State of Health (NYSOH) properly terminate your coverage in your silver level qualified health plan effective January 1, 2016?

Did NYSOH properly determine that your enrollment in a gold level qualified health plan was effective February 1, 2016?

## Procedural History

On October 29, 2015, a renewal notice was issued explaining that you would be re-enrolled in your current health plan for another year. However, if any changes needed to be made to your account, you would have to make any such changes by December 15, 2015 for those changes to be in effect by January 1, 2016.

No changes were made to your account, and on November 25, 2015, an enrollment confirmation notice was issued confirming your reenrollment in your silver level health plan, effective January 1, 2016.

On December 28, 2015, NYSOH received your new enrollment request.

On December 29, 2015, a cancellation notice was issued confirming your request to cancel your silver level qualified health plan coverage effective January 1, 2016.

Also on December 29, 2015, an enrollment confirmation notice was issued confirming your enrollment in a gold level health plan effective February 1, 2016.

On January 21, 2016, you spoke to NYSOH's Account Review Unit and appealed enrollment confirmation notices insofar as they began your enrollment in a qualified health plan on February 1, 2016, and not January 1, 2016.

On May 16, 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 are seeking insurance for yourself.
- 2) You were automatically enrolled in your silver level qualified health plan on November 25, 2015. This gave you a renewal start date of January 1, 2016.
- 3) You testified, and the record reflects, that you selected a higher tier gold level qualified health plan on December 28, 2015.
- 4) Your enrollment in the plan became effective February 1, 2016.
- 5) You were subsequently disenrolled from your silver level qualified health plan effective January 1, 2016.
- 6) You testified that you needed your qualified health plan to begin on January 1, 2016 because you were left with a gap in coverage of one month.
- 7) You testified that you did not intend to have your silver level qualified health plan be cancelled effective January 1, 2016.
- 8) You testified that you believe you made your premium payment responsibility for the month of January 2016.
- 9) You testified that you incurred medical costs of approximately \$750.00 for visits to your doctor and physical therapist during the month of January, 2015.

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

## **Applicable Law and Regulations**

### Qualified Health Plan Termination Requests

The Marketplace 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 Marketplace 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)).

The Exchange must provide an opportunity at the time of plan selection for an enrollee to choose to remain enrolled in a QHP if he or she becomes eligible for other minimum essential coverage and the enrollee does not request termination (45 CFR § 155.430(b)(1)(ii)).

### 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 after the fifteenth day of the 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 NYSOH properly terminated your silver level qualified health plan effective January 1, 2016.

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You were automatically enrolled in your silver level qualified health plan on November 25, 2015. This gave you a start date of January 1, 2016. You testified, and the record reflects, that you selected a higher tier gold level qualified health plan on December 28, 2015 when you went into your account and updated your level of coverage.

A cancellation notice was issued on December 29, 2015, confirming your request to cancel your silver level qualified health plan coverage effective January 1, 2016. You testified that you did not intend to have your silver level qualified health plan be cancelled effective January 1, 2016.

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 NYSOH or qualified health plan. However, NYSOH should have allowed you the option to continue your qualified health plan coverage in your silver level health plan until your new enrollment took place. You testified that you believed you were simply selecting a higher level health plan, and not canceling your coverage for the month of January, 2016.

Therefore, the December 29, 2015 cancellation notice improperly cancelled your silver level qualified health plan, and is MODIFIED to reflect a disenrollment date of January 31, 2016.

The second issue under review is whether NYSOH properly determine that your enrollment in a gold level qualified health plan was effective no earlier than February 1, 2016.

The record shows that on December 28, 2016 you updated the information in your NYSOH account and submitted a request to enroll in a higher level qualified health plan. On December 29, 2015, NYSOH issued an enrollment confirmation notice stating that your enrollment in your gold level qualified health plan was effective February 1, 2016.

For selections of qualified health plans 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. When you chose your higher gold level health plan, the correct effective date would be by the first day of the second following month from December 28, 2015, which would be February 1, 2016.

Therefore, NYSOH's December 29, 2015 enrollment confirmation notice are AFFIRMED because it properly began your enrollment in your gold level qualified health plan on February 1, 2016.

## **Decision**

The December 29, 2015 cancellation notice MODIFIED to reflect a disenrollment from your silver level qualified health plan effective January 31, 2016.

The December 29, 2015 enrollment confirmation notice is AFFIRMED.

Your case is RETURNED to NYSOH marketplace to effectuate this change.

**Effective Date of this Decision:** May 20, 2016

## **How this Decision Affects Your Eligibility**

This decision does not change your eligibility.

Your enrollment in your silver level qualified health plan will terminate effective January 31, 2016. You will be responsible for any premium responsibility for that month if you have not already paid it.

Your enrollment in your gold level qualified health plan will begin effective 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.

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## **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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P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The December 29, 2015 cancellation notice MODIFIED to reflect a disenrollment from your silver level qualified health plan effective January 31, 2016.

The December 29, 2015 enrollment confirmation notice is AFFIRMED.

This decision does not change your eligibility.

Your enrollment in your silver level qualified health plan will terminate effective January 31, 2016. You will be responsible for any premium responsibility for that month if you have not already paid it.

Your enrollment in your gold level qualified health plan will begin effective February 1, 2016.

Your case is RETURNED to NYSOH marketplace to effectuate this change.

## **Legal Authority**

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



**A Copy of this Decision Has Been Provided To:**

