



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

**Notice of Decision**

Decision Date: June 30, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006538

[REDACTED]

Dear [REDACTED],

On June 2, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health’s December 31, 2015 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 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.

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## Decision

Decision Date: June 30, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006538



## Issue

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

Did NY State of Health properly determine that your and your spouse's enrollment in your QHP was terminated effective January 1, 2016?

## Procedural History

On October 24, 2015, NY State of Health (NYSOH) issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2015, or you might lose the financial assistance you were currently receiving.

On October 31, 2015, NYSOH issued a notice informing you that health coverage would no longer be available through Health Republic effective December 1, 2015, and that you needed to select a new qualified health plan (QHP) for the month of December 2015 by November 15, 2015.

On November 5, 2015, you logged into your NYSOH account and selected a new QHP.

On November 6, 2015, NYSOH issued a notice of enrollment confirmation, confirming your enrollment and your spouse's enrollment in a CareConnect EPO Silver ST INN Pediatric Dental Dep 25 couple's silver-level QHP, with a \$282.00 premium, with an enrollment start date of December 1, 2015.

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On November 16, 2015, NYSOH issued a second renewal notice informing you that you needed to update your NYSOH account by December 15, 2015, or you might lose the financial assistance you were currently receiving.

On December 4, 2015, you updated your NYSOH account.

On December 5, 2015, NYSOH issued an eligibility determination stating that you and your spouse were eligible to receive up to \$505.00 in advance payments of the premium tax credit (APTC), and eligible to receive cost-sharing reductions (CSR), effective January 1, 2016.

Also on December 5, 2015, NYSOH issued a notice of enrollment confirmation confirming your enrollment in a CareConnect EPO Silver ST INN Pediatric Dental Dep 25 couple's silver-level QHP, with a premium of \$347.00 per month, and enrollment start date of January 1, 2016.

On December 30, 2015, you changed your enrollment.

On December 31, 2015, NYSOH issued a cancellation notice stating that your request to cancel coverage with your CareConnect EPO Silver ST INN Pediatric Dental Dep 25 plan was received on December 30, 2015, and that you would not have coverage with this plan effective January 1, 2016.

Also on December 31, 2015, NYSOH issued a notice of enrollment confirmation confirming your enrollment and your spouse's enrollment in a CareConnect EPO Gold NS INN Dep 25 Acupuncture couple's gold-level QHP, with a monthly premium of \$481.00, effective February 1, 2016.

On January 27, 2016, you spoke to NYSOH's Account Review Unit and appealed the cancellation of your enrollment and your spouse's enrollment in your CareConnect silver level QHP for the month of January 2016.

On June 2, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open for fifteen days at the end of the hearing so that you could submit copies of your insurance ID cards and proof of premium payment for the month of January 2016. You faxed a seven-page document to the NYSOH Appeals Unit on June 2, 2016. The record is now closed.

## Findings of Fact

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

- 1) You testified that you initially chose to enroll in the silver level CareConnect QHP for 2016 because this was the same plan you had chosen for December 2015 when your Health Republic coverage came to an end, and you were satisfied with this plan.
- 2) You testified that you received ID cards for yourself and your spouse for the silver level QHP that you enrolled in for January 2016.
- 3) You testified that you paid the January 2016 premium for your silver level QHP on CareConnect's website on December 30, 2015.
- 4) You testified that, at the end of December 2015, you and your spouse discovered that your spouse was pregnant.
- 5) You testified that you began reviewing your coverage, and determined that it would be more cost-effective to enroll in a gold level plan going forward because of the hospital expenses that your spouse would be incurring.
- 6) You testified that you logged into your NYSOH account to change your coverage to a CareConnect gold-level QHP.
- 7) You testified that you did not care about having gold plan coverage for January 2016. You testified that it was your understanding that you would have your silver plan coverage for January 2016 and that your gold plan coverage would start in February 2016.
- 8) You testified that your wife had a complication with her pregnancy in January 2016 and had to go to the emergency room. You testified that you presented your ID card for your silver-level QHP and paid the co-pay.
- 9) You testified that you now have an outstanding bill for that emergency room visit.
- 10) You testified that CareConnect has since applied your January 2016 premium payment for your silver QHP as a credit toward your March 2016 gold QHP premium.
- 11) The record reflects that a NYSOH representative made the following note in Incident # [REDACTED] on April 26, 2016:

“Consumer contacted the marketplace on 12/30/2015 to change the enrollment for himself and his wife as they had found out that his wife is

pregnant. They were enrolled into Careconnect EPO Silver plan and changed to Careconnect Gold. By doing this on 12/30/2015 this cancelled the coverage completely for the month of January 2016. The premium had already been paid for this month. Consumer requests the coverage with the Silver level be reinstated as they were not informed this was cause a gap in coverage for January 2016. **This was a NYSOH agent error. The call was pulled and the agent stated that this would only affect the coverage for Feb. not Jan so the consumer proceed to process the change in the application with the agent on the line**” (Emphasis added).

12) You testified that you are looking for you and your spouse to be re-enrolled into your CareConnect silver QHP for the month of January 2016.

13) After the hearing, you faxed a seven-page document to the NYSOH Appeals Unit consisting of the following:

- a. A one-page cover sheet;
- b. A one-page document with a copy of the front of two CareConnect ID Cards (one in your name, and one in your spouse’s name) that list the plan as “Std Silver CSR,” with a handwritten notation indicating that these are the cards you used in December 2015;
- c. A one-page copy of “Receipt # [REDACTED] which states “Standard Silver CSR 150-200; November 16, 2015 at 6:18 PM” and shows an amount paid of \$282.00 paid by check, and a handwritten notation indicating that this was payment for your December 2015 premium;
- d. A one-page document with a copy of the front of two CareConnect ID cards (one in your name, and one in your spouse’s name), that list the plan as “Silver CSR,” with a handwritten notation indicating that that these are the cards you used in January 2016;
- e. A one-page copy of “Receipt # [REDACTED] which states “Standard Silver CSR 200-250; December 30, 2015 at 7:14PM” and shows an amount paid of \$347.00, paid by checking account, and a handwritten notation indicating that this was the payment for your January 2016 premium;
- f. A one-page document with a copy of the front of two CareConnect ID cards (one in your name and one in your spouse’s name), that list the plan as “Value Gold 100%,” with a handwritten notation indicating that these are the cards you used beginning in February 2016;

- g. A one-page copy of "Receipt # [REDACTED] which states "Value Gold 100%; May 27, 2016 at 3:33AM" and shows an amount paid of \$481.00, paid by checking account, and a handwritten notation indicating that this was payment for June 2016, and that the payment has been the same from February until now.

These documents are collectively entered into the record as "Appellant's Exhibit One."

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

## **Applicable Law and Regulations**

### Redetermination During a Benefit Year

Any change resulting from redeterminations during a benefit year should be made effective the first day of the month following the date of the notice of redetermination, except that redeterminations resulting from changes made after a date specified by the state, which can be no earlier than the 15<sup>th</sup> of the month, may not be made effective until the first day of the month after the month following the date of the notice of redetermination (45 CFR § 155.330(f)(1) and (2)). New York has specified that changes made after the 15<sup>th</sup> of a given month will take effect the month after the following month.

### 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 issue under review is whether NYSOH properly determined that your and your spouse's enrollment in your couple's silver-level QHP was cancelled effective January 1, 2016.

You testified, and the record indicates, that you updated your NYSOH application on December 30, 2015 to change your coverage from a silver plan to a gold plan;

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however, you kept the same carrier. The note made by a NYSOH representative for Incident # [REDACTED] indicates that you were told on the day that you selected your gold level plan that your selection would have no effect on your January 2016 coverage, and that you changed plans online while you were speaking with the NYSOH representative. The record reflects that you updated your enrollment on December 30, 2015 at 7:11:4 PM. Further, the record reflects that you made your premium payment for your January 2016 coverage on December 30, 2015 at 7:14 PM – immediately after you updated your enrollment. (Appellant's Exhibit One). This chain of events would indicate that you paid your silver plan premium as soon as you knew that your gold plan would not go into effect until February 2016, and, moreover, that you intended for your silver plan to be in effect in January 2016.

When an individual changes information in their application after the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the next following month.

When you updated your application on December 30, 2015 any changes that resulted from that update should not have taken effect until February 1, 2016 because it was after the 15<sup>th</sup> of the month. Moreover, your payment of the January 2016 premium evinces a clear intent to retain your silver plan coverage for the month of January 2016, and the record makes plain that you were informed by a representative of NYSOH that your January 2016 coverage in your silver level QHP would remain intact.

Therefore, the December 31, 2015 cancellation notice ending you and your spouse's enrollment in your silver level QHP effective January 1, 2016 is **RESCINDED**.

NYSOH is directed to facilitate your enrollment into the silver-level CareConnect QHP referred to in the December 5, 2015 enrollment confirmation notice.

You are responsible for any outstanding premium payments for the month of January 2016.

## **Decision**

The December 31, 2015 cancellation notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate you and your spouse into your silver-level CareConnect QHP for the month of January 2016.

You are responsible for any outstanding premium payments for the month of January 2016.



**Effective Date of this Decision:** June 30, 2016

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

You and your spouse should have remained enrolled in your silver level plan for January 2016.

Your case is being sent back to NYSOH to reinstate you and your spouse's coverage for the month of January.

### **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:

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- By fax: 1-855-900-5557

## **Summary**

The December 31, 2015 cancellation notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate you and your spouse into your silver-level CareConnect QHP for the month of January 2016.

You are responsible for any outstanding premium payments for the month of January 2016.

You and your spouse should have remained enrolled in your silver level plan for January 2016.

Your case is being sent back to NYSOH to reinstate you and your spouse's coverage for the month of January.

## **Legal Authority**

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

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

