



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

## Notice of Decision

Decision Date: August 11, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007405

[REDACTED]

Dear [REDACTED],

On August 8, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 4, 2016 disenrollment 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 at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation (CFR) 45 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: August 11, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007405



## Issue

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

Did NY State of Health (NYSOH) properly determine that your enrollment in your silver level qualified health plan ended on February 29, 2016?

## Procedural History

On October 25, 2015 NYSOH issued a renewal notice stating that based on federal and state data sources, a decision could not be made about whether or not you qualify for financial help paying for health coverage in 2016. You were asked to update your account before December 15, 2015.

On December 21, 2015, NYSOH issued an eligibility redetermination notice stating that you were newly eligible to purchase a qualified health plan at full cost, effective January 1, 2016. The notice stated that you were not eligible to receive financial assistance because you did not respond to the renewal notice in the required time frame.

On December 23, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a silver level qualified health plan at full cost, effective January 1, 2016.

On February 3, 2016, your NYSOH account was updated.

On February 4, 2016 NYSOH issued a disenrollment notice stating that your coverage under your silver level qualified health plan would end, effective February 29, 2016.

On February 25, 2016, you spoke to the NYSOH Account Review Unit and appealed the disenrollment notice insofar as it terminated your coverage under your qualified health plan on February 29, 2016 and not on January 1, 2016.

On August 8, 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 supports the following findings of fact:

- 1) You testified that you had been automatically enrolled in a full cost silver level qualified health plan effective January 1, 2016, and debited \$430.44 for both January and February 2016.
- 2) You testified that you had contacted NYSOH on February 3, 2016 to update the information in your account after you had noticed another premium payment being debited from your bank account. You then requested to be disenrolled from your qualified health plan that day.
- 3) Your application does not indicate that you wanted your coverage to be auto-renewed for the 2016 coverage year.
- 4) You testified that you receive your notices via electronic alert.
- 5) You testified that your e-mail address has remained the same.
- 6) You testified that you do not remember receiving an alert to go into your account in regards to losing financial assistance or being autoenrolled into a qualified health plan as of January 1, 2016.
- 7) There is no indication that NYSOH sent you an alert or notice by email or regular mail.
- 8) You testified that you are seeking an end date for your silver level qualified health plan to be January 1, 2016. You are further seeking reimbursement for the premium payments you were debited for the months of January and February, 2016.

- 9) You testified that you now have Medicaid coverage through the state of Pennsylvania.

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

## **Applicable Law and Regulations**

### Termination of Qualified Health Plans

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 (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)).

### Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's

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eligibility using the projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

### Electronic Notices

If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

### **Legal Analysis**

The issue under review is whether NYSOH properly determined that the coverage in your silver level qualified health plan and dental plan ended on February 29, 2016.

On October 25, 2015, NYSOH issued a renewal notice stating that based on federal and state data sources, a decision could not be made about whether or not you qualify for financial help paying for health coverage in 2016. You were asked to update your account before December 15, 2015.

Since you did not respond to this notice, you were reenrolled into your qualified health plan at full cost as of January 1, 2016.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You testified that you do not remember receiving an alert to go into your account in regards to losing financial assistance or being autoenrolled into a qualified health plan as of January 1, 2016. There is no evidence in your account documenting that any email alert was sent to you regarding the renewal notice or the need to renew your application.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account.

You testified that you had contacted NYSOH on February 3, 2016, to update the information in your account after you had noticed a premium payment being debited from your bank account. You then requested to be disenrolled from your qualified health plan that day.

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

However, as previously discussed, NYSOH did not give you the proper notice that you needed to update your account or that you had been reenrolled into a qualified health plan at full cost. Furthermore, you did not elect in your previous application to be automatically renewed for the 2016 coverage year.

Therefore, the February 4, 2016 disenrollment notice is MODIFIED to state that your coverage through your full pay silver level qualified health ended effective December 31, 2015.

## **Decision**

The February 4, 2016 disenrollment notice is MODIFIED to state that your coverage through your full pay silver level qualified health plan ended effective December 31, 2015.

Your case is RETURNED to NYSOH to facilitate this change.

**Effective Date of this Decision:** August 11, 2016

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

Your coverage through your silver level qualified health plan ended effective December 31, 2015.

## **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.

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).

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
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
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### **Summary**

The February 4, 2016 disenrollment notice is MODIFIED to state that your coverage through your full pay silver level qualified health plan ended effective December 31, 2015.

Your case is RETURNED to NYSOH to facilitate this change.

Your coverage through your silver level qualified health plan ended effective December 31, 2015.

### **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545.

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

