



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

## Notice of Decision

Decision Date: August 23, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007566

[REDACTED]

Dear [REDACTED],

On August 15, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 29, 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 and the Account ID 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: August 23, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007566

[REDACTED]

## Issue

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

Did NY State of Health (NYSOH) properly disenroll you from your silver-level qualified health plan effective February 29, 2016?

## Procedural History

On April 7, 2015, NYSOH issued an enrollment notice confirming your enrollment in a silver-level qualified health plan with a \$179.94 premium.

On November 7, 2015, NYSOH issued a renewal notice stating that a decision could not be made as to whether you qualified for financial assistance for the 2016 coverage year. You were asked to update the information in your account by December 15, 2015, or the financial assistance you were currently receiving might end.

No changes were made to 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 for advance premium tax credits because you had not responded to the renewal notice within the required time frame.

On December 23, 2015, NYSOH issued an enrollment notice confirming your enrollment in a silver-level qualified health plan with a premium responsibility of \$516.34 per month and a start date of January 1, 2016.

On January 28, 2016, your account was updated and your application for financial assistance was received.

On January 29, 2016, NYSOH issued an eligibility redetermination notice stating that you were newly eligible to enroll in a qualified health plan, with advance premium tax credits of \$89.00 per month effective March 1, 2016.

Also on January 29, 2016, NYSOH issued a disenrollment notice ending your coverage with your silver-level health plan effective February 29, 2016. This notice was based upon your request received on January 28, 2016.

Also on January 29, 2016, NYSOH issued an enrollment confirmation notice confirming your enrollment in a bronze-level qualified health plan with a premium responsibility of \$272.86 per month and a start date of March 1, 2016.

On March 1, 2016, you contacted NYSOH Account Review Unit and appealed the disenrollment effective date of your silver-level health plan. You requested the disenrollment be made effective January 31, 2016.

On August 15, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open for 14 days for you to submit documents you received from your silver-level health plan. You uploaded those documents to your account on August 15, 2016. Those documents included a December 26, 2015 billing statement, a February 3, 2016 letter of late premium due, a March 13, 2016 "Certificate of Credible Coverage" showing cancel date of February 1, 2016 and a March 11, 2016 letter stating your coverage was terminated February 1, 2016 for non-payment of premium. These documents were collectively marked as Appellant's Exhibit # 1 and incorporated into the record. The record is now closed.

## **Findings of Fact**

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

- 1) You testified, and the record reflects, that you were receiving advance premium tax credits to assist in paying the cost of your insurance premium in 2015.
- 2) The record reflects you were automatically enrolled into a full cost silver-level qualified health plan effective January 1, 2016.

- 3) You testified and the record reflects that you receive your notices by regular mail.
- 4) You testified that you knew you had been auto-enrolled and assumed there was nothing you had to do.
- 5) You testified that in early January 2016 you received an invoice from the silver-level health plan for premium payments for January and February 2016. As the premium payments were significantly more than the previous year, this is when you first learned that you were not receiving advance premium tax credits in 2016.
- 6) You testified that you contacted the silver-level health plan on January 4, 2016 and spoke to a customer service representative. You testified you told her you would pay the premium for January 2016 but that you wanted your plan cancelled for the end of January. You told the plan representative that you would shop for and purchase a lower cost plan through NYSOH.
- 7) You testified that you paid your January 2016 premium for the silver-level health plan but did not pay for February 2016.
- 8) You testified and the record reflects that on January 28, 2016, using the services of an insurance broker, you cancelled the silver-level health plan and selected a bronze-level health plan. The bronze-level health plan had an enrollment start date of March 1, 2016.
- 9) The enrollment history tab in your NYSOH account indicates that your enrollment in your silver-level qualified health plan was terminated as of January 31, 2016.

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

## **Applicable Law and Regulations**

### Termination of a Qualified Health Plan

The NYSOH must permit an enrollee to terminate his or her coverage with a qualified health plan coverage, with appropriate notice to the NYSOH or qualified health plan (45 CFR § 155.430(b)(1)(i)).

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 the NYSOH properly determined that the coverage provided by your silver-level qualified health plan ended on February 29, 2016.

You testified, and the record reflects, that you were receiving advance premium tax credits to assist in paying the cost of your insurance premium in 2015.

On November 7, 2015, NYSOH issued a renewal notice stating that a decision could not be made as to whether you qualified for financial assistance for the 2016 coverage year. You were asked to update the information in your account by December 15, 2015, or the financial assistance you were currently receiving might end. You testified that you received notices from NYSOH by regular mail.

As a result of not responding to the renewal notice, your advance premium tax credit eligibility ended as of December 31, 2015. The record reflects you were then automatically enrolled into a full cost silver-level qualified health plan effective January 1, 2016. You testified that you knew you had been automatically reenrolled in your health plan and that you thought you didn't need to do anything.

You testified that when you received the invoice for health care premiums from the silver-level health plan, you realized that you were not receiving advance premium tax credits and the costs for health insurance coverage were significantly higher than in previous years. On January 4, 2016, you contacted a customer service representative at the silver-level health plan. You told her you would pay for January 2016, but wanted the plan cancelled as of the end of January 2016. You stated you would obtain a different plan through NYSOH.

On January 28, 2016, using the services of an insurance broker, you cancelled the silver-level health plan and selected a bronze-level health plan with an enrollment effective date of March 1, 2016.

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Enrollees must be allowed to terminate their coverage with a qualified health plan at the date they specify if they provide reasonable notice to the NYSOH or to their health plan. Reasonable notice is defined as at least 14 days prior to the requested termination date.

Based on your credible testimony you contacted the silver-level health plan on January 4, 2016 and requested the plan be cancelled as of January 31, 2016. Further, the documents in Appellant's Exhibit #1 demonstrate that the silver-level plan terminated your coverage February 1, 2016.

Since you did provide reasonable notice to your health plan, your coverage should have terminated effective January 31, 2016. Further, the enrollments tab in your NYSOH account indicates that your coverage with the silver-level plan started January 1, 2016 and ended January 31, 2016.

Therefore, NYSOH's January 29, 2016, disenrollment notice is MODIFIED to state that your coverage through your silver-level qualified health plan ended effective January 31, 2016, so as to be consistent with both your NYSOH account and the certificate of insurance coverage issued by your silver-level health plan, which show that your coverage in your silver-level qualified health plan ended January 31, 2016.

## **Decision**

The January 29, 2016, disenrollment notice is MODIFIED to state that your coverage through your silver-level qualified health plan ended effective January 31, 2016.

**Effective Date of this Decision:** August 23, 2016

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

Your coverage through your silver-level qualified health plan ended effective January 31, 2016.

You did not have health insurance during February 2016 through NYSOH.

## **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.

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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 29, 2016, disenrollment notice is MODIFIED to state that your coverage through your silver-level qualified health plan ended effective January 31, 2016.

Your coverage through your silver-level qualified health plan ended effective January 31, 2016.

You did not have health insurance during February 2016 through NYSOH.

### **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:**

