



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

## Notice of Decision

Decision Date: August 26, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007700

[REDACTED]

Dear [REDACTED],

On August 18, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 21, 2016 and the March 5, 2016 disenrollment notices.

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

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007700



## Issues

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

Did NY State of Health (NYSOH) properly determine that your enrollment in your bronze level qualified health plan ended on January 31, 2016?

Did NYSOH properly determine that your reenrollment in your bronze level qualified health plan ended on March 31, 2016?

## Procedural History

On November 25, 2015 NYSOH issued an eligibility determination stating that you were eligible to purchase a qualified health plan at full cost, effective January 1, 2016.

Also on November 25, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a bronze level qualified health plan at full cost, effective January 1, 2016.

On January 21, 2016 NYSOH issued a disenrollment notice stating that your coverage through your bronze level qualified health plan ended as of January 31, 2016.

Also on January 21, 2016 NYSOH issued an enrollment confirmation notice stating that you were enrolled in the same bronze level qualified level health plan, effective March 1, 2016.

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On March 4, 2016 you contacted NYSOH and requested to terminate your coverage through your bronze level qualified health plan.

Also on March 4, 2016, you spoke to the NYSOH Account Review Unit and appealed the disenrollment notices insofar as they terminated your coverage under your qualified health plan on January 31, 2016 and not on January 1, 2016; and on March 31, 2016 and not on March 1, 2016.

On March 5, 2016 NYSOH issued a disenrollment notice stating that your coverage through your bronze level qualified health plan ended as of March 31, 2016.

On August 18, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and you gave permission to the Hearing Officer to listen to phone calls that you had with NYSOH representatives. Those recordings were incorporated into the record. The record is now closed.

## **Findings of Fact**

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

- 1) The record indicates that on November 24, 2015 you updated your NYSOH application and enrolled into a full pay bronze level qualified health for January 1, 2016 coverage.
- 2) You testified that you paid the premium for January coverage but that you went to the doctor and discovered that you would have to pay out of pocket. You testified that as a result you called to cancel your plan for January 2016.
- 3) During the telephone recording you placed to NYSOH on January 20, 2016, you stated that you did not pay a premium for January coverage and that your plan had informed you that you were cancelled for non-payment and that you would need to reenroll into coverage.
- 4) You testified that you did not remember requesting to be reenrolled in your qualified health plan as of March 1, 2016.
- 5) The record indicates that on January 20, 2016 a NYSOH representative reenrolled you into a bronze level qualified health plan.
- 6) During the telephone recording you placed to NYSOH on January 20, 2016, you stated that you were calling to reenroll yourself into your bronze level qualified health plan. You gave a NYSOH representative permission

to confirm and check out your plan selection of the same bronze level qualified health plan.

- 7) The record indicates that on March 4, 2016 you contacted NYSOH to terminate your enrollment in your qualified health plan.

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(b)(1)(i)-(iii)).

NYSOH permits a qualified health plan to terminate an individual's coverage if (1) the enrollee is no longer eligible for coverage or (2) non-payment of the premiums by the enrollee (45 CFR § 155.430(b)(2)(i)-(ii)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your enrollment in your bronze level qualified health plan ended on January 31, 2016

The record indicates that on November 24, 2015 you updated your NYSOH application and enrolled into a full pay bronze level qualified health for January 1, 2016 coverage.

You testified that you paid the premium for January coverage but that you went to the doctor and discovered that you would have to pay out of pocket. You testified that as a result you called to cancel your plan for January 2016.

During the telephone recording you placed to NYSOH on January 20, 2016, you stated that you did not pay a premium for January coverage and that your plan had informed you that you were cancelled for non-payment and that you would need to reenroll into coverage.

Since a review of the phone conversation does not support your testimony, we must assume that the requested termination date of your bronze level health plan is January 20, 2016 since the record indicates that on that day a NYSOH representative disenrolled you from that plan.

NYSOH permits a qualified health plan to terminate an individual's coverage if the plan does not receive payment of premium.

There is no indication in the record that you were terminated for non-payment for the month of January and credible evidence demonstrates that you intended to have coverage for the month of January 2016 and that you did not cancel that coverage until at least January 20, 2016.

Therefore, NYSOH's January 21, 2016 enrollment confirmation notice stating that your enrollment through your bronze level qualified health plan ended as of January 31, 2016 is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your enrollment in your bronze level qualified health plan ended on March 31, 2016

The record indicates that on January 20, 2016 a NYSOH representative reenrolled you into a bronze level qualified health plan. You testified that you did not remember requesting to be reenrolled in your qualified health plan as of March 1, 2016.

During the telephone recording you placed to NYSOH on January 20, 2016, you stated that you were calling to reenroll yourself into your bronze level qualified health plan. You gave a NYSOH representative permission to confirm and check out your plan selection of that qualified health plan.

The record indicates that on March 4, 2016 you contacted NYSOH to terminate your enrollment in your qualified health plan.

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.

Since you did not contact NYSOH to cancel your March 2016 coverage until March 4, 2016, you did not give appropriate notice for your coverage to be cancelled effective March 1, 2016.

Therefore, the March 5, 2016 disenrollment notice stating that your coverage through your bronze level qualified health plan ended as of March 31, 2016 is **AFFIRMED**.

## **Decision**

The January 21, 2016 disenrollment notice is **AFFIRMED**.

The March 5, 2016 disenrollment notice is **AFFIRMED**.

**Effective Date of this Decision:** August 26, 2016

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

Your enrollment and disenrollment dates with your qualified health plan remain unchanged.

## **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.

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

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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:  
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Albany, NY 12211
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### **Summary**

The January 21, 2016 disenrollment notice is AFFIRMED.

The March 5, 2016 disenrollment notice is AFFIRMED.

Your enrollment and disenrollment dates with your qualified health plan remain unchanged.

### **Legal Authority**

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

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

