



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

Notice of Decision

Decision Date: September 13, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007875

[REDACTED]

Dear [REDACTED],

On August 26, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health’s January 15, 2016 disenrollment and enrollment confirmation 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 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007875

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Issues

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

Did NY State of Health (NYSOH) properly terminated your coverage in a qualified health plan, effective January 1, 2016, when you changed health plans during the open enrollment period for 2016?

Did NY State of Health (NYSOH) properly determine that your enrollment in a qualified health plan and the application of advance payments of the premium tax credit were effective February 1, 2016?

Procedural History

On December 21, 2015, NYSOH issued a notice of eligibility redetermination stating that you were newly eligible to receive advance payments of the premium tax credits (APTC), effective January 1, 2016.

On December 20, 2015, NYSOH issued an enrollment notice confirming your enrollment as of January 1, 2016 in a silver-level qualified health plan (QHP) with Empire Blue Cross Blue Shield (BCBS) Downstate that you had selected on December 19, 2015. It also stated that you had a monthly premium responsibility of \$348.03, after your monthly APTC was applied, effective January 1, 2016.

On January 15, 2016, NYSOH issued an enrollment notice confirming your request to change QHPs to a similar silver-level QHP with BCBS, but in a Multi-State plan, effective February 1, 2016. Your APTC was to be applied as of that month as well. The notice stated that this plan selection was made on December

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19, 2015. Your NYSOH account shows that the change of plans was facilitated on January 14, 2016.

Also on January 15, 2016, NYSOH issued a disenrollment notice confirming that, on January 14, 2016, you had requested to end insurance coverage with the first BCBS QHP plan (Downstate) you had selected on December 19, 2015, and that coverage would end January 31, 2016.

On January 30, 2016, NYSOH issued another enrollment notice confirming that you were enrolled in the BCBS silver-level multi-state QHP, effective February 1, 2016.

On March 11, 2016, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination and enrollment confirmation notices insofar as your coverage and eligibility to receive APTC for January 2016 were altogether terminated and your financial assistance eligibility and enrollment in the second BCBS plan you selected began on February 1, 2016.

On August 26, 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 submitted an application to NYSOH for financial assistance on December 19, 2015, and enrolled in a silver-level QHP (Downstate) with BCBS.
- 2) According, to your NYSOH account and your testimony at hearing, you contacted NYSOH on January 14, 2016, to change plans with BCBS from downstate coverage to multi-state coverage.
- 3) According to your NYSOH account and your testimony, you were told there would be no consequences for changing plans and your coverage with your second QHP choice started on February 1, 2016.
- 4) According to your testimony and the enrollment history in your NYSOH account, coverage in the first BCBS plan you selected was terminated as of its intended inception; that is, on January 1, 2016, and not as of January 31, 2016, as is stated in the January 15, 2016 disenrollment notice.

- 5) You testified that this resulted in you being held responsible for lab work and treatment in January 2016, and further caused your care and treatment to be delayed.
- 6) You are seeking to have your current coverage backdated to January 1, 2016, to cover treatment and lab work from January 2016 and for all out-of-pocket expenses to be applied to your deductible. You also indicated you will accept having coverage restored in the first BCBS Plan you had selected, if that is the only legal remedy available.

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

Applicable Law and Regulations

Enrollment in a Qualified Health Plan

NY State of Health (NYSOH) must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees **may change** QHPs (45 CFR §155.410(a)(1); emphasis added).

For the benefit year beginning on January 1, 2016, the annual open enrollment period began on November 1, 2015, and extended through January 31, 2016 (45 CFR §155.410(e)(2)).

Termination of Coverage by an Enrollee

NYSOH must permit an enrollee to terminate his or her coverage with a qualified health plan, including when an enrollee obtains other minimum essential coverage, with appropriate notice to the Marketplace or the qualified health plan (45 CFR § 155.430(b)(1)).

Reasonable notice is defined as at least fourteen days before the requested effective date of termination (45 CFR § 155.430(d)(1)(i)).

When an enrollee initiates termination of coverage with a qualified health plan, the last date of coverage is ---

- (i) The termination date specified by the enroll, if the enrollee provides reasonable notice;
- (ii) Fourteen days after the termination is requested by the enrollee, if the enrollee does not provide reasonable notice; or

- (iii) On a date on or after the date on which the termination is requested by the enrollee, subject to the determination of the enrollee's QHP issuer, if the enrollee's QHP issuer agrees to effectuate termination fewer than fourteen days, and the enrollee requests an earlier termination date.

45 CFR § 155.430(d)(2).

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 terminated your QHP coverage in January 2016 and thereafter enrolled you in the second QHP you selected and applied your monthly APTC as of February 1, 2016.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that you submitted a complete application on December 19, 2015, and elected to change QHPs on January 14, 2016. Therefore, you completed your application and changed your QHP selection during the open enrollment period.

The record reflects that on January 14, 2016, you requested to change QHPs, which was effectuated as of that date with a February 1, 2016 enrollment start date as is stated in the January 15, 2016 enrollment notice. An enrollee, in effect, terminates coverage with one plan when he or she changes QHPs during open enrollment, as in your case. Since January 14, 2016 provided more than the 14 days required to provide reasonable notice, NYSOH properly issued a disenrollment notice on January 15, 2016, stating that your coverage in your BCBS silver-level QHP (Downstate) would end effective January 31, 2016.

However, according to your NYSOH account and your credible testimony, NYSOH's system erroneously terminated your coverage in that BCBS silver-level QHP as of January 1, 2016, when it should have been terminated as of January 31, 2016. For this reason, your case is RETURNED to NYSOH to reinstate your coverage in the BCBS silver-level QHP (Downstate) you had originally selected

from January 1, 2016 through January 31, 2016, to apply your monthly APTC to your premium amount for that month, and to notify you accordingly.

Finally, the record shows that on January 14, 2016, you submitted a request to change silver-level QHPs with BCBS from a state plan to a multi-state plan because of treatment you were receiving outside of New York State. On January 15, 2016, NYSOH issued an enrollment confirmation notice stating that your enrollment in your BCBS multi-state QHP was effective February 1, 2016, and that APTC would be applied to your monthly premium effective as of that date.

When an individual changes QHP selections during open enrollment period, as in your case, on or before the 15th of any month, NYSOH must make the enrollment start date that results from the change effective the first day of the following month. Additionally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the first day to and including fifteenth day of a month goes into effect on the first day of the following month.

Therefore, NYSOH's January 15, 2016 enrollment confirmation notice is **AFFIRMED** because it properly began your new enrollment in your BCBS silver-level QHP (Multi-State) and applied your APTC in February 2016.

Decision

The January 15, 2016 disenrollment notice stating that your coverage in your BCBS silver-level QHP (Downstate) would end effective January 31, 2016 is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to reinstate your coverage in the BCBS silver-level QHP (Downstate) you had originally selected for the period of January 1, 2016 through January 31, 2016, to apply your monthly APTC to your premium amount for that month, and to notify you accordingly.

The January 15, 2016 enrollment confirmation notice is **AFFIRMED** as it properly stated that your enrollment in your BCBS silver-level QHP (Multi-State) began February 1, 2016, as did application of your APTC for that month and continuing.

Effective Date of this Decision: September 13, 2016

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

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).

Your enrollment in your qualified health plan, and your eligibility for APTC in your initial BCBS silver-level QHP (Downstate) should have remained in place from January 1, 2016 through January 31, 2016.

Your case is being sent back to NYSOH to reinstate your coverage for January 2016 and to apply your monthly APTC. NYSOH will inform you once this is completed and you will be responsible for your portion of the premium that month.

Your coverage in the BCBS silver-level QHP (Multi-State) you selected on January 14, 2016, began on February 1, 2016, and your monthly APTC was applied to the premium that month.

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:

NY State of Health Appeals

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- By fax: 1-855-900-5557

Summary

The January 15, 2016 disenrollment notice stating that your coverage in your BCBS silver-level QHP (Downstate) would end effective January 31, 2016 is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to reinstate your coverage in the BCBS silver-level QHP (Downstate) you had originally selected for the period of January 1, 2016 through January 31, 2016, to apply your monthly APTC to your premium amount for that month, and to notify you accordingly.

The January 15, 2016 enrollment confirmation notice is **AFFIRMED** as it properly stated that your enrollment in your BCBS silver-level QHP (Multi-State) began February 1, 2016, as did application of your APTC for that month and continuing.

This decision does not change your eligibility.

Your enrollment in your qualified health plan, and your eligibility for APTC in your initial BCBS silver-level QHP (Downstate) should have remained in place from January 1, 2016 through January 31, 2016.

Your case is being sent back to NYSOH to reinstate your coverage for January 2016 and to apply your monthly APTC. NYSOH will inform you once this is completed and you will be responsible for your portion of the premium that month.

Your coverage in the BCBS silver-level QHP (Multi-State) you selected on January 14, 2016, began on February 1, 2016, and your monthly APTC was applied to the premium that month.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

