



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

### Notice of Decision

Decision Date: September 8, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007889

[REDACTED]

Dear [REDACTED],

On September 6, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 22, 2015 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 NY State of Health 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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## Decision

Decision Date: September 8, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007889

[REDACTED]

## 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 the coverage provided by your gold level qualified health plan ended on November 30, 2016?

## Procedural History

On December 9, 2014, NYSOH issued an enrollment confirmation notice that stated you were enrolled in Empire HMO 600, Gold, ST, INN, Pediatric Dental Dep25. The notice further stated that your coverage would begin after you paid your first month's premium which could be as early as January 1, 2015.

On December 22, 2015, the NYSOH issued a disenrollment notice that stated your HMO Gold Plan would terminate effective December 31, 2015.

On March 9, 2016, you called NYSOH to request a telephone hearing because you received a 1095-A tax form stating that advanced premium tax credits were paid to the health plan for the month of November, despite your failure to pay the premium for that month and your desire to terminate coverage as of October 31, 2015.

On September 6, 2016, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

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## **Findings of Fact**

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

- 1) The record indicates that you were enrolled in a gold level qualified health plan effective January 1, 2015.
- 2) You testified that you paid the monthly premium every month from January 2015 through October 2015. You testified that you made your last payment on September 30, 2015 which covered you for the month of October 2015.
- 3) You testified that you did not notify the health plan or NYSOH of your request to terminate coverage in your qualified health plan. You further testified that it was your understanding that the health plan automatically terminates you on the third of the month after non-payment of premium for that month.
- 4) Your NYSOH account reflects that you first notified NYSOH that you wanted to terminate your coverage through your qualified health plan as of October 31, 2015 on March 9, 2016.
- 5) The Enrollment history tab in your NYSOH account indicates that your coverage in your gold level qualified health plan ended as of November 30, 2015.

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

## **Applicable Law and Regulations**

### Plan Terminations

The 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 the NYSOH or qualified health plan (45 CFR § 155.430(b)(1)(i)).

For enrollee-initiated terminations, the last day of coverage is either:

The termination date specified by the enrollee, if they provide notice at least 14 days before the requested termination becomes effective;

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Fourteen days after the enrollee requests the termination, if they do not provide 14 days' notice; or

On a date on or after the date the enrollee requests the termination, subject to the determination of the enrollee's qualified health plan issuer, if the enrollee's qualified health plan issuer agrees to effectuate termination in fewer than 14 days, and the enrollee requests an earlier termination effective date (45 CFR § 155.430(d)(2)(i)-(iii)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your enrollment in your gold level qualified health plan ended on November 30, 2015.

The record indicates that you were enrolled in a gold level qualified health plan effective January 1, 2015.

You testified that you paid the monthly premium every month from January 2015 through October 2015 for your coverage. You testified that you made your last payment on September 30, 2015 which covered you for the month of October 2015.

You testified that you did not notify the health plan or NYSOH of your request to terminate coverage through your gold level qualified health plan. You further testified that it is your understanding that the health plan automatically terminates you on the third of the month after non-payment of premium for that month.

NYSOH must permit an enrollee to terminate his or her coverage with a qualified health plan with appropriate notice to the NYSOH. The enrollee must provide notice of his or her request to terminate their qualified health plan at least 14 days before it becomes effective.

Since you did not contact NYSOH to cancel your November 2015 coverage until March 9, 2016, you did not give appropriate notice for your coverage to be cancelled effective October 31, 2015 through NYSOH.

The Enrollment history tab in your NYSOH account indicates that your coverage in your gold level qualified health plan ended as of November 30, 2015. Therefore, the December 22, 2015 disenrollment notice stating that your coverage through your gold level qualified health plan ended as of December 31, 2015 is MODIFIED to state that your coverage through your gold level qualified health plan ended as of November 30, 2015.

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Please note, that a qualified health plan provider has the ability to cancel your coverage for non-payment of premiums. The Appeals Unit for NYSOH does not have the authority to discuss the merits of cancellations of coverage for non-payment.

Since the health plan could have effectuated a termination date of October 31, 2015 despite our system showing a termination date of November 30, 2015, your case will be RETURNED to Plan Management for verification of the end date of your coverage.

## **Decision**

The December 22, 2015 disenrollment notice stating that your coverage through your gold level qualified health plan ended as of December 31, 2015 is MODIFIED to state that your coverage through your gold level qualified health plan ended as of November 30, 2015.

Since the health plan could have effectuated a termination date of October 31, 2015 despite our system showing a termination date of November 30, 2015, your case will be RETURNED to NYSOH's Plan Management for verification of the end date of your coverage.

**The Effective Date of this Decision:** September 8, 2016

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

Your coverage with your gold level qualified health plan ended effective November 30, 2015.

Your case is being sent back to NYSOH to see if your health plan terminated your coverage for the month of November 2015 as well.

## **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,

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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
- By fax: 1-855-900-5557

## **Summary**

The December 22, 2015 disenrollment notice stating that your coverage through your gold level qualified health plan ended as of December 31, 2015 is MODIFIED to state that your coverage through your gold level qualified health plan ended as of November 30, 2015.

Since the health plan could have effectuated a termination date of October 31, 2015 despite our system showing a termination date of November 30, 2015, your case will be RETURNED to NYSOH's Plan Management for verification.

## **Legal Authority**

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

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

