



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

Notice of Decision

Decision Date: October 14, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008546

[REDACTED]

Dear [REDACTED],

On October 11, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 19, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: October 14, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008546

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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 bronze level qualified health plan ended effective March 31, 2016?

Procedural History

On December 4, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost effective January 1, 2016. The notice stated this determination was based on your household income of \$52,300.00. You were not eligible for Medicaid, Child Health Plus, the Essential Plan, or to receive advance premium tax credits because the income you provided was over \$46,680.00.

That same day an enrollment confirmation notice was issued confirming your enrollment on November 25, 2015, in a bronze level qualified health plan as well as a dental plan starting January 1, 2016.

On March 19, 2016, NYSOH issued a disenrollment notice which stated your request to end your coverage with your bronze level health plan was received on March 18, 2016. Your coverage would therefore end effective March 31, 2016.

On March 31, 2016, you contacted the NYSOH Account Review Unit and appealed the date you were disenrolled from your bronze level qualified health plan requesting it be made effective February 29, 2016.

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).

On October 7, 2016, a Hearing Officer called you for your scheduled hearing. Due to the address on your Notice of Hearing not having your apartment number included, an adjournment was granted to October 11, 2016, at 1:00 p.m.

On October 11, 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 proceeding.

Findings of Fact

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

- 1) The record reflects your application was received on November 25, 2015.
- 2) The record reflects you enrolled in a full cost Bronze level qualified health plan effective January 1, 2016.
- 3) You testified that you paid premium payments for your qualified health plan January, February, and March, 2016.
- 4) Your NYSOH account shows you have been terminated from your bronze level qualified health plan effective March 31, 2016.
- 5) You testified that you are now seeking a retro-active disenrollment from your bronze level health plan effective February 29, 2016.
- 6) You testified you had contacted a NYSOH representative at the end of February, 2016, and explained to them you had recently accepted a new job offer and would be receiving employer sponsored insurance beginning March 14, 2016.
- 7) You testified that a NYSOH representative told you that you could not have a partial month of enrollment, to remain enrolled through March, and then call back in to request a retro-active disenrollment. You testified you were not sure what the exact date of the call was to NYSOH.
- 8) You testified after you received your employer sponsored insurance you requested cancellation from your bronze level qualified health plan on March 18, 2016.
- 9) You testified you did not use your bronze level qualified health plan or dental plan in March, 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

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)).

NYSOH must permit an enrollee to retroactively terminate or cancel their enrollment in a qualified health plan if:

- 1) The enrollee demonstrates that they attempted to terminate their coverage and experienced a technical error that did not allow the coverage to be terminated, and requests retroactive termination within 60 days after they discovered the technical error.
- 2) The enrollment in the qualified health plan was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of NYSOH or HHS, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities. Such enrollee must request cancellation within 60 days of discovering the unintentional, inadvertent, or erroneous enrollment.
- 3) The enrollee was enrolled in a qualified health plan without their knowledge or consent by any third party, including third parties who

have no connection with the Exchange, and requests cancellation within 60 days of discovering of the enrollment.

(45 CFR § 155.430(b)(2)(iv)(A-C)).

Legal Analysis

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

On November 25, 2015, NYSOH received your updated application for financial assistance. As a result you were found eligible to purchase a qualified health plan at full cost effective January 1, 2016. You subsequently enrolled in a bronze level qualified health plan effective January 1, 2016.

The record indicates that you requested to be disenrolled from your bronze level qualified health plan. Your NYSOH account shows your enrollment in your plan ended effective March 31, 2016.

You testified that you are now seeking a retroactive disenrollment from your bronze level health plan effective February 29, 2016.

NYSOH must permit an enrollee to be retroactively disenrolled from their qualified health plan if the enrollee demonstrates that there was a technical error that should have allowed them to terminate coverage earlier, or if their enrollment in the plan was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities, or the enrollee was enrolled into a qualified health plan without their knowledge or consent by a third party.

You testified you had contacted a NYSOH representative at the end of February, 2016, and explained to them you had recently accepted a new job offer and would be receiving employer sponsored insurance beginning March 14, 2016.

You testified that a NYSOH representative told you that you could not have a partial month of enrollment. You decided to remain enrolled through March, and then call back in to request a retroactive disenrollment. Therefore, your continued enrollment in the qualified health plan for the month of March was not unintentional, inadvertent or erroneous.

You testified after you received your employer sponsored insurance on March 14, 2016 you contacted a NYSOH representative and officially requested cancellation from your bronze level qualified health plan on March 18, 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 NYSOH or to their health plan. Reasonable notice is defined as at least 14 days prior to the requested termination date.

NYSOH terminated your insurance coverage with your bronze level health plan effective March 31, 2016, which is the last day of the month following your request.

Since you do not qualify to be retroactively disenrolled from your coverage and you did not provide reasonable notice to NYSOH, your coverage cannot be terminated effective February 29, 2016. Your health plan would have to agree to effectuate termination of your coverage if you wanted your coverage terminated earlier than the required 14 days' notice.

Therefore, NYSOH's March 19, 2016, disenrollment notice is **AFFIRMED**.

You may contact your qualified health plan to see if they will agree to effectuate your disenrollment with an earlier date than you provided notice for, and to see if they will reimburse any premium payment made for March, 2016.

Decision

The NYSOH's March 19, 2016, disenrollment notice is **AFFIRMED**.

You may contact Empire Blue Cross Blue Shield to see if they will agree to effectuate your disenrollment with an earlier date than you provided notice for.

Effective Date of this Decision: October 14, 2016

How this Decision Affects Your Eligibility

Your coverage through your Bronze level qualified health plan ended effective March 31, 2016.

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

NYSOH's March 19, 2016, disenrollment notice is **AFFIRMED**.

You may contact Empire Blue Cross Blue Shield to see if they will agree to effectuate your disenrollment with an earlier date than you provided notice for.

Your coverage through your Bronze level qualified health plan ended effective March 31, 2016.

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:

