



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: AP000000008624

[REDACTED]

Dear [REDACTED],

On October 11, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's April 5, 2016 enrollment confirmation 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 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: October 14, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008624

[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 your enrollment in your silver level qualified health plan ended effective April 30, 2016?

## Procedural History

On October 22, 2015, NY State of Health (NYSOH) issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2015 or you might lose the financial assistance you were currently receiving.

No updates were made to your account by December 15, 2015.

On December 21, 2015 NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost. You were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance because you had not responded to the renewal notice and had not completed your renewal within the required time frame.

On December 22, 2015 NYSOH issued an enrollment confirmation notice stating that you were enrolled in a silver level qualified health plan at full cost, effective January 1, 2016.

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On April 4, 2016 NYSOH received your updated application for health insurance as well as your request to cancel your enrollment in silver level qualified health plan.

Also on April 4, 2016 you spoke to NYSOH's Account Review Unit and appealed your automatic enrollment into a full pay qualified health plan for the months of January, February, March, and April 2016.

On April 5, 2016 NYSOH issued a disenrollment stating that your coverage through your silver level qualified health plan would end effective April 30, 2016.

On October 11, 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) The record indicates that for the 2015 coverage year you were enrolled in a silver level qualified health plan with advance premium tax credits.
- 2) The record indicates that you receive your notices from NYSOH by regular mail.
- 3) You testified that you did not receive any renewal notice telling you that you that you needed to update your application in order to renew your eligibility for financial assistance.
- 4) The record indicates that you were auto-enrolled into your silver level qualified health plan without financial assistance as of January 1, 2016.
- 5) You testified that you were not aware that you had been enrolled into your silver level qualified health plan automatically.
- 6) You testified, and the record indicates, that you did not elect to be auto-enrolled into your previous coverage for the 2016 coverage year.
- 7) You testified that you continued to pay your 2015 level premium to your health plan for the months of January, February, March, and April 2016.
- 8) The record indicates that you updated your NYSOH account on April 4, 2016 and requested disenrollment from your plan that day.

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- 9) The enrollment history tab in your NYSOH indicates that your coverage through your silver level qualified health plan was terminated as of February 29, 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)).

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 issue under review is whether NYSOH properly determined that your enrollment in your silver level qualified health plan ended effective April 30, 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 October 22, 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.

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 were not aware that you had been enrolled into your silver level qualified health plan automatically. You testified, and the record indicates, that you did not elect to be auto-enrolled into your previous coverage for the 2016 coverage year. However, you testified that you continued to pay your 2015 level premium to your health plan for the months of January, February, March, and April 2016. Therefore, you intended to have coverage as of January 1, 2016 if you continued to pay premiums payments to your health plan even if you did not specifically elect to be auto-enrolled.

The record indicates that you contacted NYSOH on April 4, 2016 to update your account and to terminate your full pay qualified health plan enrollment.

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.

The record reflects that you did not request to terminate your health insurance coverage through NYSOH until April 4, 2016 and there is nothing in the record that would support a finding for retroactive disenrollment. Therefore, since your request was after the 15<sup>th</sup> of the month, the termination cannot go into effect until the end of the next following month, in your case April 30, 2016.

Since you did not provide reasonable notice to NYSOH or your health plan, your coverage cannot be terminated effective January 1, 2016. However, the enrollment history tab in your NYSOH account indicates that your enrollment in your Silver level qualified health plan was terminated as of February 29, 2016.

Therefore, NYSOH's April 5, 2016, disenrollment notice is MODIFIED to state that your coverage through your Silver level qualified health plan ended effective February 29, 2016.

## **Decision**

The April 5, 2016, disenrollment notice is MODIFIED to state that your coverage through your Silver level qualified health plan ended effective February 29, 2016.

**Effective Date of this Decision:** October 14, 2016

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

Your enrollment in your qualified health plan ended as of February 29, 2016.

This decision has no effect on your subsequent enrollment in an Essential Plan as of May 1, 2016.

## **If You Disagree with this Decision (Appeal Rights)**

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).

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:  
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P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The April 5, 2016, disenrollment notice is MODIFIED to state that your coverage through your Silver level qualified health plan ended effective February 29, 2016.

Your enrollment in your qualified health plan ended as of February 29, 2016.

This decision has no effect on your subsequent enrollment in an Essential Plan as of May 1, 2016.

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## **Legal Authority**

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

