



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

**Notice of Decision**

Decision Date: November 15, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008974

[REDACTED]

Dear [REDACTED]

On November 2, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health’s December 26, 2014 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 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: November 15, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008974



## Issues

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

Was your appeal of NY State of Health's (NYSOH) September 17, 2015 disenrollment notice timely?

Did NYSOH properly determine that your enrollment in your qualified health plan ended effective January 31, 2015?

## Procedural History

On February 14, 2014, NYSOH issued an eligibility determination stating that you were eligible to enroll in a qualified health plan through NYSOH with \$204.00 of monthly advanced premium tax credits. You were subsequently enrolled into a qualified health plan.

On November 4, 2014, NYSOH issued a notice advising you it was time to renew your NYSOH coverage. The notice stated that you were being reenrolled in your qualified health plan with advance premium tax credits in the amount of \$24.43 monthly, effective January 1, 2015. The notice further advised "you need to make changes between November 16, 2014 and December 15, 2014 for your new plan to be effective January 1, 2015".

On December 9, 2014, NYSOH issued an enrollment notice confirming your enrollment in a qualified health plan effective January 1, 2015.

On December 25, 2014, NYSOH issued a notice of disenrollment in your 2014 qualified health plan effective December 31, 2014. The notice advised that “you will be automatically renewed in the same plan for 2015”.

Subsequently, on December 25, 2014, you updated information in your NYSOH account including changing your income amount.

On December 26, 2014, NYSOH issued a notice of disenrollment in your qualified health plan effective January 31, 2015 stating that you were no longer eligible to remain in your plan.

On December 26, 2014 and again on December 31, 2014, NYSOH issued notices stating that you may be eligible for health insurance through NYSOH but more information was needed to determine your eligibility. You were asked to submit documentation of your income.

On December 30, 2014, you uploaded several pay stubs for the month of November 2014 to your NYSOH account.

On January 3, 2015, NYSOH issued an eligibility redetermination notice stating that you were eligible for Medicaid effective January 1, 2015.

Also on January 3, 2015, NYSOH issued a notice of enrollment confirming your enrollment in a Medicaid Managed Care plan effective February 1, 2015.

On January 9, 2015, you contacted NYSOH to request that your qualified health plan be terminated wherein a complaint was opened by NYSOH.

On June 17, 2015, NYSOH denied your request to modify the end date of your qualified health plan. You were advised of NYSOH's determination and the complaint was closed on June 19, 2015.

On April 19, 2016, you contacted the NYSOH Account Review Unit and appealed the end date of your 2015 qualified health plan coverage, requesting the disenrollment be made effective December 31, 2014.

On November 2, 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 that you enrolled in a qualified health plan with advanced premium tax credits on February 13, 2014.
- 2) You testified that you received the November 4, 2014 renewal notice issued by NYSOH advising that you were being reenrolled in your qualified health plan effective January 1, 2015. You further testified that you did not update your account prior to the December 15, 2014 deadline provided in the notice because you were satisfied with being reenrolled in the same plan for the 2015 year.
- 3) The record reflects that you were automatically reenrolled into your qualified health plan effective January 1, 2015.
- 4) You testified, and the record reflects, that you updated your NYSOH account on December 25, 2014 to report a decrease in income.
- 5) The record reflects that following the December 25, 2014 update to your account, NYSOH determined you were no longer eligible to remain enrolled in your current health insurance and disenrolled you from your 2015 qualified health plan, effective January 31, 2015
- 6) The record reflects that you were found eligible for Medicaid on January 2, 2015.
- 7) You credibly testified that your qualified health care premium for the month of January 2015 was automatically debited from the payment account you had registered with NYSOH.
- 8) The record reflects that you first contacted NYSOH on January 9, 2015 to request your 2015 qualified health plan coverage be terminated.
- 9) The record reflects that NYSOH denied your request for retroactive disenrollment on June 17, 2015 (Complaint # [REDACTED])
- 10) The record also reflects that NYSOH never issued a written notice advising of their determination to deny your request for retroactive disenrollment in your qualified health plan.
- 11) The record reflects that you had overlapping coverage in your qualified health plan and Medicaid for the month of January 2015.

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

## **Applicable Law and Regulations**

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## Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

## 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)).

If an enrollee is newly eligible for Medicaid, the last day of coverage for the qualified health plan is the day before the Medicaid coverage begins (45 CFR § 155.430(d)(2)(iv)).

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 first issue under review is whether your appeal of NYSOH's December 26, 2014 disenrollment notice was timely.

The record reflects that you first contacted NYSOH to dispute the disenrollment date of your qualified health plan on January 9, 2015. A complaint was created at that time and on June 17, 2015 NYSOH denied your request for a different disenrollment date (Complaint # [REDACTED]).

Generally, a person must file an appeal within 60 days of an eligibility determination notice in order for their appeal to be considered timely. However, the record is devoid of any evidence that NYSOH ever issued a written notice of its determination of the January 9, 2015 complaint.

Since you are as entitled to appeal NYSOH failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination, your appeal filed on April 19, 2016 regarding the end date of your 2015 qualified health plan will be considered timely.

The second issue under review is whether NYSOH properly determined that your enrollment in your qualified health plan ended effective January 31, 2015.

You testified that you received the November 4, 2014 renewal notice issued by NYSOH advising that you were being reenrolled in your qualified health plan effective January 1, 2015. You further testified that you did not update your account prior to the December 15, 2014 deadline provided in the notice because you were satisfied with being reenrolled in the same plan for the 2015 year.

As a result, you were automatically enrolled in a qualified health plan for the 2015 year, effective January 1, 2015. The record establishes that you updated your NYSOH account on December 25, 2014 wherein you decreased your income amount. NYSOH found you no longer eligible to remain in your qualified health plan and disenrolled you effective January 31, 2015.

The record reflects that you first contacted NYSOH to request retroactive disenrollment in your 2015 qualified health plan coverage on January 9, 2015.

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.

There is no indication in the record that your enrollment in a qualified health plan as confirmed in the December 9, 2014 enrollment notice was unintentional, inadvertent, or erroneous, nor was your enrollment in a qualified health plan 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. In fact, you testified that you received the November 4, 2014 renewal notice issued by NYSOH and therefore knew you were being reenrolled in your qualified health plan for the 2015 year. As such, there is no indication that your enrollment in a qualified health plan as confirmed in the December 9, 2014 enrollment notice was without your knowledge or consent.

Therefore, there is no basis to find that NYSOH must permit you to retroactively terminate or cancel your enrollment in a qualified health plan.

On December 25, 2014, you contacted NYSOH to update your application for financial assistance. As a result, you were found eligible for Medicaid effective January 1, 2015. On December 26, 2014, NYSOH issued a disenrollment notice

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stating that your enrollment in your qualified health would end effective January 31, 2015.

You testified that you are seeking an earlier disenrollment date because you had Medicaid coverage in January 2015 when you were still enrolled in your qualified health plan.

If an enrollee is newly eligible for Medicaid, the last day of coverage through their qualified health plan is the day before the Medicaid coverage begins. Since you were determined eligible for Medicaid on January 2, 2015 under the regulations your qualified health plan should have terminated that day. However, NYSOH does not allow for prorated or partial premiums based on the amount of days in a month you were enrolled in a qualified health plan and as such your plan was terminated at the end of the calendar month in which you became eligible for Medicaid.

Therefore, NYSOH properly determined that your plan terminated as of January 31, 2015, and NYSOH's December 26, 2014, disenrollment notice is AFFIRMED.

## **Decision**

The December 26, 2014 disenrollment notice is AFFIRMED.

**Effective Date of this Decision:** November 15, 2016

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

This decision does not change your disenrollment date. Your enrollment in your qualified health plan ended as of January 31, 2015.

## **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.

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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**

The December 26, 2014 disenrollment notice is AFFIRMED.

This decision does not change your disenrollment date. Your enrollment in your qualified health plan ended as of January 31, 2015.

### **Legal Authority**

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

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

