



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

Notice of Decision

Decision Date: November 22, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009267

[REDACTED]

Dear [REDACTED],

On November 10, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 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 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]
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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 you and your spouse's enrollment in your qualified health plan ended effective May 31, 2016?

Procedural History

On October 23, 2015, NYSOH issued a renewal notice stating that you and your spouse were eligible to receive up to \$317.60 per month in advance payments of the premium tax credit, effective January 1, 2016.

On November 25, 2015, NYSOH issued an enrollment notice confirming your and your spouse's enrollment in a qualified health plan effective January 1, 2016.

On April 19, 2016, NYSOH issued a disenrollment notice indicating that coverage in your and your spouse's qualified health plan would end effective May 31, 2016.

On April 28, 2016 you contacted the NYSOH Account Review Unit and appealed the date you were disenrolled from your qualified health plan, requesting the disenrollment be made effective April 30, 2016.

On November 10, 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.

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Findings of Fact

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

- 1) You testified that you were not mistakenly enrolled in your qualified health plan for January 1, 2016.
- 2) You testified that you were seeking to terminate your enrollment in your qualified health plan because you were not satisfied with the providers and services the plan covered.
- 3) You testified that you are not sure when you contacted NYSOH to disenroll yourself from your qualified health plan, but you believe it was sometime after April 8, 2016.
- 4) You testified that you had no reason to dispute the April 18, 2016 date that NYSOH has noted as the date you contacted NYSOH to disenroll yourself from your qualified health plan through NYSOH.
- 5) You testified that you contacted your qualified health plan directly at some point prior to contacting NYSOH to disenroll yourself from your qualified health plan, however, you could not recall when you contacted your qualified health plan.
- 6) You testified that you paid a premium to your qualified health plan for the month of May 2016.
- 7) You testified that you did not use your qualified health plan in the month of May 2016.
- 8) You testified that you are seeking retroactive disenrollment from your qualified health plan effective April 30, 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)).

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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 you and your spouse's enrollment in your qualified health plan ended effective May 31, 2016.

On October 23, 2015, NYSOH issued a renewal notice stating that you and your spouse were eligible to receive up to \$317.60 per month in advance payments of the premium tax credit, effective January 1, 2016. You and your spouse were subsequently enrolled into a qualified health plan.

On April 19, 2016, NYSOH issued a disenrollment notice indicating you would be disenrolled from your qualified health plan effective May 31, 2016.

You testified that you are seeking retroactive disenrollment from your qualified health plan effective April 30, 2016.

NYSOH must permit an enrollee to be retroactively disenroll 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 November 25, 2015 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. Furthermore, there is no indication that your enrollment in a qualified health plan as confirmed in the November 25, 2015 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.

The record reflects that on April 18, 2016 you contacted NYSOH and requested that you be disenrolled from your qualified health plan as you no longer wanted to remain enrolled. Although you testified that you contacted your qualified health plan prior to contacting NYSOH, you were not sure of exactly when you contacted your qualified health plan.

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

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health plan. Reasonable notice is defined as at least 14 days prior to the requested termination date.

NYSOH terminated your insurance coverage with your qualified health plan effective May 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, NYSOH properly determined that your disenrollment in your qualified health plan was effective May 31, 2016.

Therefore, the April 19, 2016, disenrollment notice is AFFIRMED.

Decision

The April 19, 2016 disenrollment notice is AFFIRMED.

Effective Date of this Decision: November 22, 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 May 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.

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

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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:

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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The April 19, 2016 disenrollment notice is AFFIRMED.

This decision does not change your disenrollment date. Your enrollment in your qualified health plan ended as of May 31, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

