

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

## Notice of Decision

Decision Date: January 11, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009944



On November 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 29, 2016 disenrollment and enrollment notices.

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: January 11, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009944



## Issues

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

Did New York State of Health (NYSOH) properly determine that your enrollment in your silver-level qualified health plan (QHP) ended effective February 29, 2016?

Did NYSOH properly determine that your bronze-level QHP began on March 1, 2016?

## Procedural History

On October 23, 2015, 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 through NSYOH, effective as of January 1, 2016.

On December 23, 2015, NYSOH issued an enrollment notice confirming your enrollment in a silver-level QHP, with a plan enrollment start date of January 1, 2016.

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On January 28 2016, NYSOH received your updated application for health insurance.

On January 29, 2016, NYSOH issued three notices:

- (1) An eligibility determination notice stating that you were newly eligible to receive up to \$201.00 monthly of advance premium tax credit and cost-sharing reductions, effective March 1, 2016;
- (2) A disenrollment notice stating that you requested to end your silver-level QHP on January 28, 2016, and your coverage would end effective February 29, 2016;
- (3) An enrollment notice confirming that as of January 28, 2016, you were enrolled in a bronze-level QHP, with an enrollment start date of March 1, 2016.

On May 26, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as your enrollment in a QHP for the months of January and February 2016.

On November 22, 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) You testified and your NYSOH account reflects that you were enrolled in a silver-level QHP, with financial assistance, in 2015.
- 2) Your NYSOH account reflects that you were automatically re-enrolled in the same silver-level QHP, without financial assistance, effective January 1, 2016.
- 3) Your NYSOH account reflects that on January 28, 2016, NYSOH received your updated application for health insurance.
- 4) Your NYSOH account reflects that on January 28, 2016, you requested to end your silver-level QHP and enrolled in a bronze-level QHP.
- 5) According to your NYSOH account, your silver-level QHP was discontinued January 1, 2016.
- 6) You testified that you went to a medical appointment on January 25, 2016.

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- 7) You testified on March 23, 2016, you received a bill for \$141.00 for your January 25, 2016 medical appointment, and on March 26, 2016 received a bill for approximately \$1,300.00 for [REDACTED] that were taken at that appointment.
- 8) You testified you are seeking to be enrolled in any QHP for the months of January and February 2016 to cover the outstanding medical bills from your January 25, 2016 medical appointment.
- 9) You testified you did not receive a notice from the QHP stating that your health insurance had been discontinued.
- 10) NYSOH uploaded an Evidence Packet to your NYSOH account in anticipation of your telephone hearing ([REDACTED]). The "Appeal Summary" ([REDACTED]) states in part:

Per Empire: Correct end of 2/29/2016 was sent to the plan by the Marketplace following plan change from Silver to Bronze. Subsequent to plan change, the appellant was retro-actively terminated by the health plan back to 1/1/2016 due to nonpayment.

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

## **Applicable Law and Regulations**

### QHP Termination Effective date:

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 NYSOH or qualified health (45 CFR §155.430(b)(1)).

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;
- 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

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(45 CFR § 155.430(d)(2)(i)-(iii)).

### Enrollment Start Date of QHP:

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

### Appealable Issues

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)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your enrollment in your silver-level QHP ended effective February 29, 2016.

The record reflects that you were enrolled in a silver-level QHP in 2015, and was automatically re-enrolled in the same QHP effective January 1, 2016.

An enrollee must be allowed to terminate their coverage with a QHP if they provide appropriate notice to NYSOH or to the health plan. Reasonable notice is at least fourteen days before the requested effective date of termination.

The record reflects that you requested to end your silver-level QHP coverage through NYSOH was made on January 28, 2016. Therefore, NYSOH properly terminated your silver-level QHP coverage effective February 29, 2016.

The second issue is whether NYSOH properly determine that your bronze-level QHP coverage began on March 1, 2016.

The record shows that on January 28, 2016, you updated the information in your NYSOH account and enrolled in a bronze-level QHP. On January 29, 2016,

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NYSOH issued an enrollment notice confirming that your enrollment in your bronze-level QHP was effective March 1, 2016.

The date that a QHP can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the first day to and including fifteenth day of a month goes into effect on the first day of the following month. A plan that is after the fifteenth day of a month goes into effect on the first day of the second following month.

Since you enrolled in the bronze-level QHP on January 28, 2016, NYSOH properly began your enrolled effective March 1, 2016.

The record reflects that you are seeking health insurance coverage for the months of January and February 2016 in order cover outstanding medicals bills that you have incurred. The record does not contain any notice from NYSOH terminating your enrollment in the silver-level QHP before February 29, 2016. However, the record does contain a note that you were “retro-actively terminated by the health plan back to 1/1/2016 due to nonpayment.” This note is found in the Evidence Packet in incident number [REDACTED].

NYSOH Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, therefore we cannot reach the merits as to whether or not you were properly terminated from your health plan for non-payment of premiums.

We are RETURNING your case to NYSOH’s Plan Management Unit to further investigate whether your QHP coverage was properly cancelled January 1, 2016 for nonpayment of premiums.

## **Decision**

The January 29, 2016 disenrollment notice is AFFIRMED.

The January 29, 2016 enrollment notice is AFFIRMED.

Your case has been RETURNED to NYSOH’s Plan Management Unit to investigate the cancellation of your QHP.

**Effective Date of this Decision:** January 11, 2017

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

Your enrollment in your silver-level QHP ended as of February 29, 2016.

Your enrollment in your bronze-level QHP began as of March 1, 2016.

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This decision does not address whether or not you were properly disenrolled for nonpayment of premiums.

Your case has been returned to NYSOH's Plan Management Unit to investigate the cancellation of your QHP.

### **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 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  
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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The January 29, 2016 disenrollment notice is **AFFIRMED**.

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The January 29, 2016 enrollment notice is AFFIRMED.

Your enrollment in your silver-level QHP ended as of February 29, 2016.

Your enrollment in your bronze-level QHP began as of March 1, 2016.

This decision does not address whether or not you were properly disenrolled for nonpayment of premiums.

Your case has been RETURNED to NYSOH's Plan Management Unit to investigate the cancellation of your QHP.

### **Legal Authority**

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

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

