



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

## Notice of Decision

Decision Date: February 27, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010870

[REDACTED]

Dear [REDACTED],

On January 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 26, 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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## Decision

Decision Date: February 27, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010870

[REDACTED]

## Issues

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

Did NY State of Health provide you a timely notice of your enrollment in your qualified health plan effective March 1, 2016?

Did your health plan properly determine it would not cover your outstanding medical costs you incurred during the month of June, 2016?

## Procedural History

On November 25, 2015, NY State of Health (NYSOH) issued an enrollment confirmation notice confirming your enrollment in a platinum level qualified health plan with a premium responsibility of \$750.76 per month starting January 1, 2016.

On February 24, 2016, NYSOH received your updated application.

On February 25, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan effective January 1, 2016. The notice stated you qualified to select a health plan outside of the open enrollment period for 2016. You were asked to confirm your selection no later than March 31, 2016.

Also on February 25, 2016, NYSOH issued a disenrollment notice was issued stating your request to end your insurance coverage was received on February 24, 2016, this means your coverage would end effective February 29, 2016.

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On February 26, 2016, an enrollment confirmation notice was issued confirming your enrollment on February 25, 2016, in a platinum level qualified health plan with a \$750.76 per month premium effective April 1, 2016.

On July 15, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your qualified health plan requesting you not be required to pay a premium payment for March, 2016, and only be responsible for a start date of April 1, 2016.

On January 17, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open 15 days for you to provide additional documentation showing your disenrollment letter from your health plan. The documentation was received by the NYSOH's Appeals Unit on January 17, 2017 in the form of a four-page fax which has been incorporated in the record as (Appellant's Exhibit 1).

## **Findings of Fact**

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

- 1) You testified, and the record reflects, that a NYSOH representative enrolled you in a qualified health plan on February 24, 2016.
- 2) On February 25, 2016, you requested a backdate in coverage to March 1, 2016. See Incident # [REDACTED].
- 3) Incident # [REDACTED] states that your request for a back date to March 1, 2016 was granted on March 11, 2016 and NYSOH left a voicemail stating that you need to call NYSOH. This incident was subsequently closed and there is no indication that anyone ever contacted you again in regards to the backdate.
- 4) You testified that you were not aware that your coverage had been backdated and you do not recall receiving any information verbally from NYSOH in regards to the backdate in March.
- 5) There are no notices in your account confirming your enrollment in a qualified health plan effective March 1, 2016.
- 6) On July 12, 2016, you contacted NYSOH requesting the backdate of your qualified health plan to March be cancelled. The incident states that your qualified health plan was billing you for March even though you were enrolled for April and your insurance cards listed April as your start date. See Incident # [REDACTED].

- 7) The enrollment history tab in your NYSOH account indicates that you were enrolled in a platinum level qualified health plan from March 1, 2016 to December 31, 2016.
- 8) There are no notices from NYSOH stating that you were disenrolled from your qualified health plan for non-payment of premium effective May 1, 2016.
- 9) You provided a letter from your health plan dated August 11, 2016, stating you had been disenrolled for non-payment of premium effective May 1, 2016. (See Appellant's Exhibit 1, pg. 2).
- 10) On July 15, 2016, a formal appeal was filed regarding your request to now keep your original start date of April 1, 2016.
- 11) You testified that you are requesting your qualified health plan to begin on April 1, 2016 because you do not want to be responsible for any past premium responsibility for the month of March, 2016.
- 12) You testified you are also appealing the \$748.19 in outstanding medical costs for medications not covered during the month of June 2016 when you were without coverage.

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

## **Applicable Law and Regulations**

### Enrollment in a Qualified Health Plan

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)).

### 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)).

### Timely Notice of Eligibility Determinations

When an individual applies for insurance through NYSOH, it must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1)).

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NYSOH is required to provide “timely written notice to an applicant of any eligibility determination” (45 CFR § 155.310(g)). The notice must contain an explanation of the action reflected in the notice, including the effective date of the action (45 CFR § 155.230(a)(1)).

An applicant or enrollee has the right to appeal an eligibility determination or redetermination or a failure by the NYSOH to provide timely notice of eligibility determination (45 CFR § 155.505(b)).

### Valid Appeals

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 provided you timely written notice of your enrollment in a qualified health plan effective March 1, 2016.

On February 24, 2016, you updated the information in your NYSOH account and submitted a request to reenroll in a qualified health plan. On February 26, 2016, NYSOH issued an enrollment confirmation notice stating that your enrollment in your qualified health plan was effective April 1, 2016.

Generally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the sixteenth day to and including end of a month goes into effect on the first day of the next following month.

Since you were enrolled into a qualified health plan on February 24, 2016, that plan would properly take effect on the first day of the next month following February; April 1, 2016.

However, on February 25, 2016, you contacted NYSOH and requested your qualified health plan be backdated to March 1, 2016.

On March 11, 2016, your request to backdate your coverage to March 1, 2016 was granted. An NYSOH representative called you on March 11, 2016 and left a

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voicemail stating that you need to call NYSOH. There is no indication that anyone ever contacted you again in regards to the backdate.

On July 12, 2016, you contacted NYSOH requesting the backdate to March be cancelled. According to an incident filed with NYSOH, your qualified health plan was billing you for March even though you were enrolled for April and your insurance cards listed April as your start date.

NYSOH must permit an enrollee to be retroactively disenrolled from their qualified health plan if the enrollee was enrolled into a qualified health plan without their knowledge or consent.

The record indicates that after a voicemail was left for you on March 11, 2016 to inform you that you needed to call NYSOH, there was no further communication between you or NYSOH in regarding your enrollment in a qualified health plan as of March 1, 2016. You testified that you were not aware that your coverage had been backdated and that you do not recall receiving any information verbally from NYSOH in regards to the backdate in March.

Further, NYSOH is required to provide is required to provide timely written notice and the notice must contain an explanation of the action reflected in the notice, including the effective date of the action. There are no notices in your account confirming your enrollment in a qualified health plan effective March 1, 2016.

Therefore, it is determined that NYSOH enrolled you into a qualified health plan for the month of March without proper notice or your consent and you should have been allowed to retroactively disenroll from your qualified health plan for the month of March 2016.

Accordingly, NYSOH's February 26, 2016 enrollment confirmation notice is **AFFIRMED** because it began your enrollment in your qualified health plan on April 1, 2016.

Your case is **RETURNED** to NYSOH to disenroll you from your qualified health plan for the month of March 2016 and to ensure that you are enrolled in your platinum level qualified health plan effective April 1, 2016.

The second issue is whether your health plan properly determined it would not cover your outstanding medical costs you incurred during the month of June 2016.

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

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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)).

Your appeal was requested in part to dispute the medical costs you incurred as a result of your health plan stating you did not have coverage during the month of June, 2016. This issue relates to coverage which is not an issue that the NY State of Health Appeals Unit is authorized to address. Therefore, we must DISMISS your appeal on this issue.

Further, you provided a letter from your health plan dated August 11, 2016, stating you had been disenrolled for non-payment of premium effective May 1, 2016. NYSOH Appeals Unit also does not have the authority to address issues arising from non-payment of premiums. However, there are no notices from NYSOH stating that you were disenrolled from your qualified health plan for non-payment of premium and the enrollment history tab in your NYSOH account indicates that you were enrolled in a platinum level qualified health plan from March 1, 2016 to December 31, 2016.

Therefore, your case is RETURNED to Plan Management to investigate any premium amount still owed in order to remain enrolled for any months you experienced a gap in coverage. You will still be responsible for paying any premium payment owed if it is determined by your health plan there is a balance.

## **Decision**

The February 26, 2016 enrollment confirmation notice is AFFIRMED because it properly began your enrollment in your qualified health plan on April 1, 2016.

Your case is RETURNED to NYSOH to disenroll you from your qualified health plan for the month of March 2016 and to ensure that you are enrolled in your platinum level qualified health plan effective April 1, 2016.

Your appeal related to your health plan not covering outstanding medication costs is DISMISSED.

Your case is RETURNED to Plan Management to investigate any premium amount still owed in order to remain enrolled for any months you experienced a gap in coverage. You will still be responsible for paying any premium payment owed if it is determined by your health plan that there is a balance.

**Effective Date of this Decision:** February 27, 2017

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

Your enrollment in your qualified health plan should have been effective as of April 1, 2016.

Your case is being sent back to NYSOH to disenroll you from your qualified health plan for the month of March 2016.

Your case is being sent back to Plan Management to investigate any premium amount still owed in order to remain enrolled for any months you experienced a gap in coverage. You will still be responsible for paying any premium payment owed if it is determined by your health plan there is a balance.

## **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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- By fax: 1-855-900-5557

## **Summary**

The February 26, 2016 enrollment confirmation notice is **AFFIRMED** because it properly began your enrollment in your qualified health plan on April 1, 2016.

Your enrollment in your qualified health plan should have been effective as of April 1, 2016.

Your case is **RETURNED** to NYSOH to disenroll you from your qualified health plan for the month of March 2016 and to ensure that you are enrolled in your platinum level qualified health plan effective April 1, 2016.

Your appeal related to your health plan not covering outstanding medication costs is **DISMISSED**.

Your case is being sent back to Plan Management to investigate any premium amount still owed in order to remain enrolled for any months you experienced a gap in coverage. You will still be responsible for paying any premium payment owed if it is determined by your health plan there is a balance.

## **Legal Authority**

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

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

