



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

Notice of Decision

Decision Date: February 1, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011155



Dear [REDACTED],

On December 28, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's July 30, 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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Issue

The issues 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 qualified health plan ended effective August 31, 2016?

Procedural History

On November 22, 2015, NYSOH issued an eligibility determination notice finding you eligible to receive advance premium tax credits up to \$104.00 per month effective January 1, 2016.

On November 25, 2015, an enrollment confirmation notice was issued confirming your enrollment in a Silver level health plan starting January 1, 2016.

On July 29, 2016, NYSOH received your updated application for financial assistance. That day, a preliminary eligibility determination was made finding you eligible for the Essential Plan effective September 1, 2016. Further, you requested that your enrollment in your qualified health plan be terminated.

Also on July 29, 2016 you contacted the NYSOH Account Review Unit and appealed the date you were disenrolled from your Silver level qualified health plan, requesting the disenrollment be made effective July 31, 2016, and not August 31, 2016.

On July 30, 2016, a disenrollment notice was issued stating your enrollment in your Silver level qualified health plan would end effective August 31, 2016. The

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notice stated this was because you were no longer eligible to remain enrolled in your current health insurance.

Also on July 30, 2016 NYSOH issued an eligibility determination notice, based on your July 29, 2016 application, stating that you were eligible for the Essential Plan, effective September 1, 2016.

On December 28, 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) You testified that you had previously been enrolled in a qualified health plan, but as a result of a decrease in your income you updated your application with NYSOH.
- 2) You testified that on July 29, 2016 you contacted NYSOH to disenroll yourself from your qualified health plan through NYSOH.
- 3) The record supports you became eligible for the Essential Plan effective September 1, 2016 based on your July 29, 2016 application for health insurance.
- 4) You testified that you did not make a premium payment to your qualified health plan for the month of August, 2016.
- 5) It was your testimony that as a result of not receiving a premium payment for July and August 2016, your health plan is now showing a \$327.73 unpaid balance.
- 6) You testified that you did not use your qualified health plan in the month of August, 2016.
- 7) You testified that you are seeking retroactive disenrollment from your qualified health plan effective July 31, 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)).

If an enrollee is newly eligible for the Essential Plan, the last day of coverage for the qualified health plan is the day before the Essential Plan 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

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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 qualified health plan ended effective August 31, 2016.

On November 22, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan and to receive advance premium tax credits up to \$104.00 per month effective January 1, 2016. You subsequently enrolled into a qualified health plan effective January 1, 2016.

You testified that you are seeking retroactive disenrollment from your qualified health plan effective July 31, 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.

On July 25, and July 29, 2016, you contacted NYSOH to update your application for financial assistance. As a result of a change in your income, you contacted NYSOH on July 25, and 29, 2016 to update your application.

With the change in income provided to NYSOH, you were found eligible for the Essential Plan effective September 1, 2016.

A disenrollment notice was issued on July 30, 2016, stating your enrollment in your Silver level qualified health plan would end effective August 31, 2016. The notice stated this was because you were no longer eligible to remain enrolled in your current health insurance.

You testified that you are seeking an earlier disenrollment date because you had Essential Plan coverage effective September 1, 2016. Additionally, your health plan is now showing a \$327.73 unpaid balance.

If an enrollee is newly eligible for the Essential Plan, the last day of coverage through their qualified health plan is the day before the Essential Plan coverage begins. Since you were determined eligible for the Essential Plan effective September 1, 2016 under the regulations your qualified health plan should have terminated effective August 31, 2016.

Therefore, NYSOH properly determined that your plan terminated as of August 31, 2016, and NYSOH's July 30, 2016 disenrollment notice is AFFIRMED.

You may make a request to your health plan issuer to agree to an earlier termination date than August 31, 2016.

Decision

The July 30, 2016 disenrollment notice is AFFIRMED.

Effective Date of this Decision: February 1, 2017

How this Decision Affects Your Eligibility

This decision does not change your disenrollment date. Your enrollment in your qualified health plan ended as of August 31, 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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- By fax: 1-855-900-5557

Summary

The July 30, 2016 disenrollment notice is AFFIRMED.

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

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

