



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

Notice of Decision

Decision Date: February 6, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011963

[REDACTED]

Dear [REDACTED],

On December 15, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's, July 30, 2016 disenrollment notice and October 28, 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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NY State of Health Account ID: [REDACTED]
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Issues

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

Did NY State of Health (NYSOH) properly determine that your enrollment in a Platinum level qualified health plan ended effective June 30, 2016?

Did NYSOH properly determine that your newborn child was not enrolled in a Platinum level qualified health plan in the month of July 2016?

Did NYSOH properly determine your, your spouse's and your newborn child's enrollment in a Silver level qualified health plan was effective July 1, 2016?

Procedural History

On November 10, 2015, NYSOH received your application for health insurance.

On November 11, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost effective January 1, 2016.

On November 22, 2015, NYSOH issued an enrollment confirmation stating that your enrollment in your Platinum level qualified health plan would start January 1, 2016.

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On July 29, 2016, enrollment in a Silver level qualified health plan were added for you, your spouse, and your newborn child. You requested that your enrollment in your Platinum level qualified health plan be terminated.

On July 30, 2016, NYSOH issued a disenrollment notice stating that your enrollment in your Platinum level qualified health plan would end effective August 31, 2016.

On August 7, 2016, NYSOH issued an eligibility determination stating that you and your spouse were eligible to purchase a qualified health plan at full cost effective September 1, 2016. The determination further stated that your newborn child was conditionally eligible to purchase a qualified health plan at full cost effective September 1, 2016.

On September 12, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your family's enrollment in the Silver level qualified health plan.

On October 28, 2016, NYSOH issued an enrollment confirmation notice stating that you, your spouse, and your newborn son were enrolled in a Silver level qualified health plan effective July 1, 2016.

On December 15, 2016, 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 to provide conversations you had with your health plan. On December 15, 2016, a three-page fax was received by NYSOH's Appeals Unit and incorporated into the record as (Appellant's Exhibit 1).

Findings of Fact

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

- 1) You submitted your initial application for 2016 health insurance coverage on November 10, 2015.
- 2) You enrolled yourself in a Platinum level qualified health plan on November 19, 2015.
- 3) Your child was born on [REDACTED]
- 4) You contacted NYSOH on July 20, 2016 to add your child to your health plan. You testified this was correct.
- 5) You, your spouse, and your newborn were enrolled in a Silver level qualified health plan on July 29, 2016, for a July 1, 2016 start date.

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- 6) You testified that as a result of the backdate in coverage for your household in a Silver level qualified health plan to July 1, 2016, you now owe a deductible due to your hospital for the stay, and higher premium payment for your Silver level qualified health plan.
- 7) You testified you believed your husband's plan would not start until August 1, 2016, not July 1, 2016.
- 8) An incident filed on September 12, 2016, indicates your request to change your qualified health plan as a result of being erroneously enrolled into a Silver level family health plan effective July 1, 2016 was denied as NYSOH representatives believed your enrollment to be correct. See Incident [REDACTED].
- 9) You testified you are seeking to have you and your newborn child on your Platinum level health plan for the month of July, 2016, and for your spouse to not be added to the silver health plan until August 1, 2016.

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

Applicable Law and Regulations

Newborn Child – Effective Date of Coverage for Qualified Health Plans

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to select a qualified health plan (45 CFR § 155.420(c)(1)).

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)).

There are special effective dates in the case of birth, adoption, placement for adoption, or placement in foster care of a child. NYSOH must ensure that coverage is effective for a qualified individual or enrollee on the date of birth, adoption, placement for adoption, or placement in foster care, or it may permit the qualified individual or enrollee to elect a coverage effective date of the first of the month following the date of birth, adoption, placement for adoption, or

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placement in foster care (45 CFR §155.420(b)(2); NYS Insurance Law § 4305). NYSOH has elected to make the effective date the first day of the month of birth.

If the Exchange permits the qualified individual or enrollee to elect a coverage effective date of either the first of the month following the date of birth, adoption, placement for adoption or placement in foster care, the Exchange must ensure coverage is effective on the date duly selected by the qualified individual or enrollee (45 CFR §155.420(b)(2)).

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)).

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)).

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)).

Legal Analysis

The first issue is whether NYSOH properly determined that your enrollment in a Platinum level qualified health plan ended effective June 30, 2016.

On November 11, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost effective January 1, 2016. You subsequently enrolled into a Platinum level qualified health plan.

On July 30, 2016, NYSOH issue a disenrollment notice indicating you would be disenrolled from your qualified health plan effective August 31, 2016.

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 November 22, 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 22, 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 July 29, 2016 you contacted NYSOH and requested that you be disenrolled from your Platinum level qualified health plan as you now wanted to enroll in a Silver level 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 health plan. Reasonable notice is defined as at least 14 days prior to the requested termination date.

NYSOH should have terminated your insurance coverage with your qualified health plan effective August 31, 2016 which is the last day of the next 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 should have determined that your disenrollment in your Platinum level qualified health plan was effective August 31, 2016.

The record indicates that you were in fact disenrolled from your Platinum level qualified health plan, effective June 30, 2016. As discussed above, the proper disenrollment date should have been August 31, 2016 as described in the July 30, 2016 disenrollment notice.

Therefore, the July 30, 2016, disenrollment notice is AFFIRMED.

Your case is RETURNED to NYSOH to reinstate you in your Platinum level qualified health plan for the months of July and August 2016.

The second issue under review is whether NYSOH properly determined that your newborn child was not enrolled in a Platinum level qualified health plan in the month of July 2016.

On [REDACTED] your child was born. You testified that you called NYSOH on July 29, 2016 to add your child to your NYSOH account, and you requested that your child be added to your qualified health plan.

In New York State if an application for insurance coverage is received through NYSOH before the 15th of the month, benefits are provided on the first day of the next month. If an application is received after the 15th of the month, health plan benefits are provided on the first day of the second subsequent month. However, special exceptions have been made for newborns seeking coverage through qualified health plans as of the newborn's date of birth. Newborns are permitted to enroll in coverage that is generally guaranteed to begin as of their date of birth if their parents have requested the enrollment within 60 days from the child's date of birth.

The record indicates that on the same day you added your newborn child to your account, you also requested to enroll your family into a Silver level qualified health plan. NYSOH made the enrollment in the Silver level qualified health plan for your newborn child effective July 1, 2016. You testified that you did not want your child's enrollment in the Silver level qualified health plan to begin until August 1, 2016 and that you intended to add him to your Platinum level qualified health plan for the month of his birth.

Since you should have been enrolled in a Platinum level qualified health plan at the time of your child's birth and that is the plan you wished to enroll your child in for the month of July, NYSOH erred in enrolling him in a Silver level qualified health plan effective July 1, 2016.

Accordingly, your case is RETURNED to NYSOH to enroll your newborn child into your previous Platinum level qualified health plan for the months of July and August 2016.

The third issue is whether NYSOH properly determined your, your spouse's, and your newborn child's enrollment in a Silver level qualified health plan was effective July 1, 2016.

On July 29, 2016 you submitted a request to enroll you, your spouse, and your newborn child into a Silver level qualified health plan. On October 28, 2016 NYSOH issued an enrollment confirmation notice stating that your, your spouse's, and your newborn's enrollment in your Silver level qualified health plan was effective July 1, 2016.

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 after the fifteenth day of a month goes into effect on the first day of the second following month.

Since you selected a new plan for you, your spouse, and your newborn child on July 29, 2016; the plan should have been effective on the first of the second following month after July, that is September 1, 2016.

Therefore, the October 28, 2016 enrollment confirmation notice is MODIFIED to reflect your, your spouse's and your child's enrollment in your Silver level qualified health plan is effective September 1, 2016.

Your case is RETURNED to NYSOH enroll you, your spouse, and your newborn child in your Silver level qualified health effective September 1, 2016.

Decision

The July 30, 2016, disenrollment notice is AFFIRMED.

Your case is RETURNED to NYSOH to reinstate you in your Platinum level qualified health plan and to enroll your newborn child into your previous Platinum level qualified health plan for the months of July and August 2016.

The October 28, 2016 enrollment confirmation notice is MODIFIED to reflect your, your spouse's and your child's enrollment in your Silver level qualified health plan is effective September 1, 2016.

Your case is RETURNED to NYSOH enroll you, your spouse, and your newborn child in your Silver level qualified health effective September 1, 2016.

Effective Date of this Decision: February 6, 2017

How this Decision Affects Your Eligibility

You and your newborn child should have been enrolled in your Platinum level qualified health plan for the months of July and August 2016.

You, your spouse, and your newborn child should have been enrolled in a Silver level qualified health plan effective September 1, 2016.

Your case is being sent back to NYSOH to effectuate the changes stated above.

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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The July 30, 2016, disenrollment notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to reinstate you in your Platinum level qualified health plan and to enroll your newborn child into your previous Platinum level qualified health plan for the months of July and August 2016.

You and your newborn child should have been enrolled in your Platinum level qualified health plan for the months of July and August 2016.

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The October 28, 2016 enrollment confirmation notice is MODIFIED to reflect your, your spouse's and your child's enrollment in your Silver level qualified health plan is effective September 1, 2016.

Your case is RETURNED to NYSOH enroll you, your spouse, and your newborn child in your Silver level qualified health effective September 1, 2016.

You, your spouse, and your newborn child should have been enrolled in a Silver level qualified health plan effective September 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

