



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

Notice of Decision

Decision Date: December 21, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012004

[REDACTED]

Dear [REDACTED],

On December 15, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's September 15, 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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Decision

Decision Date: December 21, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012004

[REDACTED]

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 your enrollment in your qualified health plan ended effective September 30, 2016?

Procedural History

On November 23, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$149.00 per month in advance payments of the premium tax credit effective January 1, 2016.

On December 15, 2015, NYSOH issued an enrollment notice confirming your enrollment in a qualified health plan effective January 1, 2016.

On September 14, 2016, NYSOH issued a preliminary determination stating that your coverage in your qualified health plan would end effective September 30, 2016.

Also on September 14, 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 August 15, 2016.

On September 15, 2016, NYSOH issued a disenrollment notice indicating that coverage in your qualified health plan would end effective September 30, 2016.

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On December 15, 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 on August 15, 2016, you contacted NYSOH to disenroll yourself from your qualified health plan through NYSOH.
- 2) You gave the Hearing Officer permission to listen to recordings of phone calls you placed to NYSOH.
- 3) A review of the record reveals that on August 15, 2016, you placed two phone calls to NYSOH.
- 4) A review of the recordings of those phone calls reveals that during those phone calls you updated your application for financial assistance with health insurance. However, at no point in those phone calls did you request to be disenrolled from your qualified health plan. In fact, during the second call, the NYSOH representative directly asked you whether you would like to disenroll from your qualified health plan, and you declined disenrollment and advised you would contact NYSOH again at the beginning of September 2016 when you returned from traveling abroad.
- 5) On September 14, 2016, you placed a phone call to NYSOH, at which point you requested to disenroll from your qualified health plan.
- 6) You testified that you wanted your enrollment in your qualified health plan to end on August 15, 2016 as you lost your job on August 11, 2016 and could not afford your premiums.
- 7) You testified that you could not remember if you used your qualified health plan in the months of August 2016 or September 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)).

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 your enrollment in your qualified health plan ended effective September 30, 2016.

On November 23, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$149.00 per month in advance payments of the premium tax credit effective January 1, 2016. You subsequently enrolled into a qualified health plan.

On September 15, 2016, NYSOH issue a disenrollment notice indicating you would be disenrolled from your qualified health plan effective September 30, 2016.

You testified that you are seeking retroactive disenrollment from your qualified health plan effective August 15, 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 December 15, 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 December 15, 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.

You testified that on August 15, 2016, you contacted NYSOH to disenroll yourself from your qualified health plan through NYSOH. However, a review of the recordings shows at no point in those calls did you request to be disenrolled from

your qualified health plan. In fact, during the second call, the NYSOH representative directly asked you whether you would like to disenroll from your qualified health plan, and you declined disenrollment and advised you would contact NYSOH again at the beginning of September 2016 when you returned from traveling abroad.

The record reflects that on September 14, 2016, you contacted NYSOH and requested that you be disenrolled from your qualified health plan as you no longer wanted to remain enrolled.

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 terminated your insurance coverage with your qualified health plan effective September 30, 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 September 30, 2016.

Therefore, the September 15, 2016, disenrollment notice is AFFIRMED.

Decision

The September 15, 2016 disenrollment notice is AFFIRMED.

Effective Date of this Decision: December 21, 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 September 30, 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.

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).

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
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- By fax: 1-855-900-5557

Summary

The September 15, 2016 disenrollment notice is AFFIRMED.

This decision does not change your disenrollment date. Your enrollment in your qualified health plan ended as of September 30, 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:

