



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

Notice of Decision

Decision Date: March 2, 2017

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000012496

[REDACTED]

Dear [REDACTED],

On January 30, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 2, 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).

This page intentionally left blank.



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

Decision

Decision Date: March 2, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012496



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 (QHP) ended effective February 29, 2016?

Procedural History

On April 17, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to receive advance payments of the premium tax credit (APTC) of up to \$269.00 per month, and eligible for cost-sharing reductions, effective June 1, 2015.

Also on April 17, 2015, NYSOH issued an enrollment notice confirming your enrollment in a QHP, and stating that your coverage could start as early as June 1, 2015 if you paid your first month's premium.

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.

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).

On December 21, 2015, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a QHP at full cost through NYSOH, effective January 1, 2016. The notice further stated that you were not eligible for Medicaid, Child Health Plus, the Essential Plan, or to receive APTC because you did not respond to the renewal notice and did not complete your renewal within the required timeframe.

On December 23, 2015, NYSOH issued a disenrollment notice, stating that your coverage in your plan would end effective December 31, 2015, because you were no longer eligible to remain enrolled in that plan.

That same day, NYSOH issued a notice of enrollment confirmation confirming your enrollment in the same silver-level QHP you were enrolled in during 2015, but at full cost. Your enrollment would begin on January 1, 2016.

On February 2, 2016, NYSOH issued a disenrollment notice stating that your enrollment in your QHP would end effective February 29, 2016, because you were no longer eligible to enroll in insurance through NYSOH.

On October 12, 2016, you contacted the NYSOH Account Review Unit and appealed the date you were disenrolled from your QHP, requesting the disenrollment be made effective January 1, 2016.

On January 30, 2017, 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 you enrolled in coverage through NYSOH because it was affordable and your monthly premium was low.
- 2) You testified that your monthly premium jumped up to a higher amount in 2016 without any notice, and that you do not think it is fair that you were not informed that your premium was increasing.
- 3) You testified that you receive notices from NYSOH by regular mail.
- 4) You testified that you do not recall receiving the October 2015 renewal notice, or the notices from December 2015 informing you that you were eligible for a full cost health plan, and confirming your re-enrollment into your QHP at full cost.

- 5) No notices have been returned to NYSOH as undeliverable.
- 6) You testified that you did not recall being asked whether you wanted your eligibility to be automatically renewed when you filed your initial application for coverage with NYSOH in 2015.
- 7) Your NYSOH account reflects, in your application from April 16, 2015, that you requested to have your coverage automatically renewed for a period of five years.
- 8) You testified that you discovered that your health plan had taken the full premium from your bank account in January 2016, and that the full premiums from January and February 2016 were automatically debited from your bank account.
- 9) The record reflects that on February 1, 2016, you contacted NYSOH to disenroll yourself from your QHP through NYSOH.
- 10) You testified that you do not think you used your coverage in January or February 2016, but it was possible you may have used it once.
- 11) You testified that you are seeking retroactive disenrollment from your QHP effective January 1, 2016 so that you can be reimbursed for the two months of premiums that were debited from your bank account.
- 12) After the hearing, the Hearing Officer requested the recording of your phone conversation with NYSOH from April 16, 2015, which was the date of your initial application for coverage, and listened to the recording in its entirety.
- 13) During your April 16, 2015 conversation with a representative from NYSOH, you were asked, as part of the application for coverage, whether you wanted your coverage automatically renewed for a period of up to five years. You responded in the affirmative, requesting that your eligibility be automatically renewed for a five-year period.

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 QHP with appropriate notice to NYSOH the QHP (45 CFR § 155.430(b)(1)(i)).

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).

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 QHP 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 QHP 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 QHP 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 QHP 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 QHP 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 QHP ended effective February 29, 2016.

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).

On December 21, 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 were subsequently re-enrolled by NYSOH into the same QHP in which you were enrolled during the 2015 coverage year.

On February 2, 2016, NYSOH issue a disenrollment notice indicating you would be disenrolled from your QHP effective February 29, 2016.

You testified that you are seeking retroactive disenrollment from your QHP, effective January 1, 2016. You testified that you never received a renewal notice for the 2016 coverage year, and that you did not receive the notices informing you that you had been found eligible for a full cost QHP, and had been re-enrolled into your same QHP at full cost for 2016. You further testified that you did not recall being asked whether you wanted to have your coverage automatically renewed when you filed your initial application for health insurance with NYSOH in 2015.

NYSOH must permit an enrollee to be retroactively disenroll from their QHP 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 QHP, as confirmed in the December 23, 2015 enrollment notice was unintentional, inadvertent, or erroneous, nor was your enrollment in a QHP 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 23, 2015 enrollment notice was without your knowledge or consent.

The record reflects that you were sent a renewal notice to your mailing address of record, and that you did not respond to that notice. It further reflects that you were sent a notice in December 2015 informing you that you had been enrolled into your QHP at full cost. Though you testified that you did not receive these notices, neither of them was returned as undeliverable to NYSOH. Therefore, you are considered to have been given proper notice of the need to renew your application for financial assistance for 2016, and of your enrollment in your QHP at full cost beginning January 1, 2016. Moreover, though you testified that you did not recall being asked whether you wanted your coverage automatically renewed, a review of the recording of the telephone call you had with NYSOH on

April 16, 2015 shows that you requested to have your coverage automatically renewed for a period of five years.

Therefore, there is no basis to find that NYSOH must permit you to retroactively terminate or cancel your enrollment in a QHP.

The record reflects that on February 1, 2016, you contacted NYSOH and requested that you be disenrolled from your QHP, as you no longer wanted to remain enrolled.

Enrollees must be allowed to terminate their coverage with a QHP 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 QHP effective February 29, 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 QHP was effective February 29, 2016.

Therefore, the February 2, 2016 disenrollment notice is AFFIRMED.

Decision

The February 2, 2016 disenrollment notice is AFFIRMED.

Effective Date of this Decision: March 2, 2017

How this Decision Affects Your Eligibility

This decision does not change your disenrollment date. Your enrollment in your QHP ended as of February 29, 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
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The February 2, 2016 disenrollment notice is **AFFIRMED**.

This decision does not change your disenrollment date. Your enrollment in your QHP ended as of February 29, 2016.

Legal Authority

We are issuing this determination in accordance with 45 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).

A Copy of this Decision Has Been Provided To:

