



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

Notice of Decision

Decision Date: January 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012984

[REDACTED]

[REDACTED]

On January 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 6, 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]
Appeal Identification Number: AP000000012984

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Issues

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 was effective as of October 1, 2016?

Procedural History

On October 5, 2016, NYSOH received your application for health insurance.

On October 6, 2016, NYSOH issued a notice of enrollment confirmation, based on your October 5, 2016 plan selection, confirming your enrollment in a bronze-level qualified health plan (QHP), with a monthly premium of \$321.34 and an enrollment start date of October 1, 2016.

On October 9, 2016, NYSOH issued a notice of eligibility determination, based on your October 5, 2016 application, stating you were eligible to purchase a qualified health plan at full cost through NYSOH, effective November 1, 2016.

On October 29, 2016, NYSOH issued a notice of dis-enrollment stating that, pursuant to your October 28, 2016 request, your QHP was terminated, effective October 31, 2016.

On November 1, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your QHP insofar as your plan began October 1, 2016.

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On December 22, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) The record indicates that you submitted an application for health insurance coverage on October 5, 2016.
- 2) You were determined eligible to enroll in a full pay qualified health plan as of November 1, 2016.
- 3) Your application indicated that you lost prior essential health coverage on September 27, 2016.
- 4) The record reflects you were granted a special enrollment period in which to enroll in a qualified health plan from the date of the reported loss of prior health coverage, September 27, 2016, until November 26, 2016.
- 5) You selected a plan on October 5, 2016 and that plan was made effective as of October 1, 2016.
- 6) You testified that you made the payment to the health plan for the October 2016 monthly premium by electronic transfer on October 6, 2016.
- 7) You testified that you did not receive any information regarding your health plan until the end of October 2016 wherein you discovered that your chosen health plan was not accepted by your primary care physician or any other local providers.
- 8) You testified that you first contacted NYSOH on October 28, 2016 to request dis-enrollment from your qualified health plan.
- 9) You testified that you did not use the insurance through your qualified health plan in October 2016.
- 10) The record reflects that you were dis-enrolled from your qualified health plan as of October 31, 2016.
- 11) You testified that you are seeking retroactive dis-enrollment from your qualified health plan back to October 1, 2016 and are seeking reimbursement of the monthly premium paid to the health plan.

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

NY State of Health (NYSOH) must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR §155.410(a)(1)).

For the benefit year beginning on January 1, 2016, the annual open enrollment period began on November 1, 2015, and extended through January 31, 2016 (45 CFR §155.410(e)(2)).

Special Enrollment Periods

After each open enrollment period ends, NYSOH provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP, and an enrollee may change their enrollment to another plan. This is generally permitted when one of the following triggering events occur:

- (1) The qualified individual or his or her dependent involuntarily loses certain health insurance coverage:
 - (a) Health insurance considered to be minimum essential coverage;
 - (b) Enrolled in any non-calendar year health insurance policy, even if they have the option to renew the expiring non-calendar year individual health insurance policy; or
 - (c) Pregnancy-related coverage; or
 - (d) Medically needy coverage.
- (2) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange; or a non-Exchange entity providing enrollment assistance or conducting enrollment activities; or

(45 CFR § 155.420(d)).

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 QHP (45 CFR § 155.420(c)(1)).

Effective Date of Coverage

If a qualified individual is granted an SEP due to the loss of minimal essential coverage, and selects a new plan on or before the last date of that coverage, NYSOH must ensure that the new plan is effective on the first date of the month following the date that coverage was lost. If the new plan is selected prior to the date the previous coverage ends, then the new plan may be made effective on the first date of the month following plan selection (45 CFR § 155.420(b)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your enrollment in your qualified health plan was effective as of October 1, 2016.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that you submitted a complete application on October 5, 2016. Therefore, you did not complete your application during the open enrollment period. However, in that application you indicated that your prior health insurance through your employer ended on September 27, 2016. Loss of minimum essential coverage, such as insurance through an employer, is considered a triggering life event.

When a triggering life event occurs, the qualified individual has sixty days from the date of that event to select a qualified health plan. Accordingly, you were given a special enrollment period until November 26, 2016 to select a plan, which you did on October 5, 2016. On October 6, 2016, NYSOH issued an enrollment confirmation notice stating that your enrollment in your QHP was effective as of October 1, 2016.

When an individual loses minimum essential coverage and is found eligible for a special enrollment period, if they select a plan before their prior coverage ends, the plan can be effective on the first day of the month following the month when coverage was lost. In your case, if you had applied before September 27, 2016 – the last date of your prior health insurance coverage – your NYSOH plan could have started October 1, 2016.

However, if an individual selects a plan after the day on which he or she loses essential coverage, NYSOH can make the start date of the plan on the first day of the month following the date of plan selection. Since you selected a plan on

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October 5, 2016, your plan should not have started any earlier than November 1, 2016.

Since the credible evidence of record indicates that NYSOH erred in making your enrollment in your qualified health plan effective October 1, 2016. enrollment should have been effective as of November 1, 2016.

Therefore, the October 6, 2016 enrollment confirmation notice is MODIFIED to reflect a November 1, 2016 enrollment start date in your qualified health plan.

Since your subsequent disenrollment from your qualified health plan was effective October 31, 2016, your case is RETURNED to NYSOH to terminate your coverage in your qualified health plan for the month of October 2016.

Decision

The October 6, 2016 enrollment confirmation notice is MODIFIED to reflect a November 1, 2016 enrollment start date in your QHP.

Since your subsequent disenrollment from your qualified health plan was effective October 31, 2016, your case is RETURNED to NYSOH to terminate your coverage in your qualified health plan for the month of October 2016.

Effective Date of this Decision: January 30, 2017

How this Decision Affects Your Eligibility

NYSOH erred in the start date of your QHP.

Your QHP was terminated, pursuant to your request, as of October 31, 2016. Your case is being sent back to NYSOH to terminate your coverage for all of October 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.

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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 October 6, 2016 enrollment confirmation notice is MODIFIED to reflect a November 1, 2016 enrollment start date in your QHP.

NYSOH erred in the start date of your QHP.

Since your subsequent disenrollment from your qualified health plan was effective October 31, 2016, your case is RETURNED to NYSOH to terminate your coverage in your qualified health plan for the month of October 2016. NYSOH erred in the start date of your QHP.

Your QHP was terminated, pursuant to your request, as of October 31, 2016.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

