



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

Notice of Decision

Decision Date: May 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014385

[REDACTED]

Dear [REDACTED],

On April 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 29, 2016 enrollment confirmation notice and December 29, 2016 disenrollment 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: May 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014385

[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 and your spouse's enrollment in a bronze-level qualified health plan was effective February 1, 2017?

Procedural History

On October 22, 2016, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that NYSOH re-enrolled you and your spouse in a silver-level qualified health plan, and that no action was required.

On November 19, 2016, NYSOH issued an enrollment confirmation notice, stating that you and your spouse were enrolled in a silver-level qualified health plan, effective January 1, 2017.

On December 28, 2016, you updated your and your spouse's enrollment to a bronze-level qualified health plan. A preliminary determination was created, stating that you and your spouse were enrolled in a bronze-level qualified health plan, effective February 1, 2017.

Also on December 28, 2016, you spoke to NYSOH's Account Review Unit and appealed the preliminary enrollment confirmation, insofar as your and your

spouse's enrollment with a bronze-level qualified health plan did not start until February 1, 2017.

On December 29, 2016, NYSOH issued an enrollment confirmation notice, stating that you and your spouse were enrolled in a bronze-level qualified health plan, effective February 1, 2017.

Also on December 29, 2016, NYSOH issued a disenrollment notice, stating that your and your spouse's coverage in a silver-level qualified health plan would end effective January 31, 2017.

On April 20, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open up to May 5, 2017 to allow you time to submit documentation and to allow the Hearing Officer time to review telephone recordings. Three calls were reviewed. On April 21, 2017, you uploaded the requested documentation to your NYSOH account. The record is now closed.

Findings of Fact

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

- 1) You testified, and the record reflects, that you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you are seeking a January 1, 2017 start date for your and your spouse's bronze-level qualified health plan.
- 3) You testified that you received the October 22, 2016 renewal notice, and contacted NYSOH regarding your plan on November 11, 2016.
- 4) You testified that you spoke to a NYSOH representative on November 11, 2016, and were advised that you could not update your and your spouse's enrollment until after December 15, 2016.
- 5) NYSOH does not have a record or a recording of a phone call on November 11, 2016.
- 6) You submitted a redacted phone record which shows an 18-minute call was placed to 855-355-5777 on November 11, 2016 at 2:07 p.m.
- 7) You testified that you do not remember if you received the November 19, 2016 enrollment confirmation notice.
- 8) You spoke to three NYSOH representatives on December 28, 2016:

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- a. The first call was abruptly ended before any substantive conversation took place.
- b. During the second call, you were advised by a NYSOH representative that you should have changed your enrollment prior to December 15, 2016 for a January 1, 2017 start date. She confirmed that you and your spouse were enrolled in a bronze-level qualified health plan with a start date of February 1, 2017. The representative stated that there was no record of a call on November 11, 2016, and she transferred you to the Account Review Unit.
- c. You spoke to a representative in the Account Review Unit, who confirmed that there is no record of a call on November 11, 2016 and advised you that your and your spouse's enrollment was never confirmed. The representative stated you that your only option to have your and your spouse's enrollment in a bronze-level qualified health plan backdated to January 1, 2017 was to file an appeal.

9) You filed an appeal on December 28, 2016.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

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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 issue under review is whether NYSOH properly determined that you and your spouse's enrollment in a bronze-level qualified health plan was effective February 1, 2017.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual's projected eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On October 22, 2016, NYSOH issued an annual renewal notice in your case. That notice stated that NYSOH re-enrolled you and your spouse in a silver-level qualified health plan, and that no action was required.

You testified that in response to the renewal notice, you contacted NYSOH on November 11, 2016 to update your and your spouse's enrollment from a silver-level qualified health plan to a bronze-level qualified health plan. You were seeking a start date for a bronze-level plan of January 1, 2017. NYSOH does not have a record of this call. However, you provided a redacted phone record which shows an 18-minute call was placed to 855-355-5777 on November 11, 2016 at 2:07 p.m.

You credibly testified that during the call on November 11, 2016, you were advised by a NYSOH representative that you were required to wait until after December 15, 2016 to update your enrollment. You relied on this information, and waited to update your and your spouse's enrollment.

The record shows that on December 28, 2016 you submitted a request to enroll in a bronze-level qualified health plan. You testified, and stated multiple times during the phone calls that took place on December 28, 2016, that you updated

your and your spouse's enrollment after December 15, 2016 based on information provided to you by a NYSOH representative on November 11, 2016.

On December 29, 2016, NYSOH issued an enrollment confirmation notice stating that your and your spouse's enrollment in a bronze-level qualified health plan was effective February 1, 2017.

When an individual changes information in their application after the 15th of any month, NYSOH will make the redetermination that results from the change effective the first day of the second following month. Additionally, 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.

Based on the December 28, 2016 plan selection, NYSOH properly determined that you and your spouse were enrolled in a bronze-level qualified health plan with a start date of February 1, 2017. However, the credible evidence shows that you attempted to update your and your spouse's enrollment to a bronze-level plan on November 11, 2016, which would have resulted in a start date prior to February 1, 2017. You did not update your enrollment at that time due to the incorrect information provided by a NYSOH representative.

Therefore, based on the credible evidence in the record, the December 29, 2016 notice of enrollment confirmation is MODIFIED to state that your and your spouse's enrollment in a bronze-level qualified health plan is effective January 1, 2017. The December 29, 2016 disenrollment confirmation notice is MODIFIED to state that your and your spouse's enrollment in a silver-level qualified health plan will end December 31, 2016.

Decision

The December 29, 2016 notice of enrollment confirmation is MODIFIED to state that your and your spouse's enrollment in a bronze-level qualified health plan is effective January 1, 2017.

The December 29, 2016 disenrollment confirmation notice is MODIFIED to state that your and your spouse's enrollment in a silver-level qualified health plan will end December 31, 2016.

Your case is RETURNED to NYSOH to disenroll you and your spouse from your silver level qualified health plan for the month of January 2017 and enroll you and your spouse into your bronze level qualified health plan for the month of January 2017.

Effective Date of this Decision: May 17, 2017

How this Decision Affects Your Eligibility

Your and your spouse's enrollment in a bronze-level qualified health plan should have begun as of January 1, 2017.

Your case is being sent back to NYSOH to effectuate this change.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace 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 Federal Marketplace. 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 have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

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 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).

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 December 29, 2016 notice of enrollment confirmation is MODIFIED to state that your and your spouse's enrollment in a bronze-level qualified health plan is effective January 1, 2017.

The December 29, 2016 disenrollment confirmation notice is MODIFIED to state that your and your spouse's enrollment in a silver-level qualified health plan will end December 31, 2016.

Your case is RETURNED to NYSOH to disenroll you and your spouse from your silver level qualified health plan for the month of January 2017 and enroll you and your spouse into your bronze level qualified health plan for the month of January 2017.

Your and your spouse's enrollment in a bronze-level qualified health plan should have begun as of January 1, 2017.

Your case is being sent back to NYSOH to effectuate this change.

Legal Authority

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

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&etumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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