



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

## Notice of Decision

Decision Date: March 31, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014514

[REDACTED]

Dear [REDACTED]

On March 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 18, 2016 enrollment notice, January 3, 2017 disenrollment notice, and January 3, 2017 enrollment 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.

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DEPARTMENT OF HEALTH  
P.O. Box 11729  
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## Decision

Decision Date: March 31, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014514

[REDACTED]

## Issues

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

Did NY State of Health properly reenroll you into your gold level qualified health plan, effective January 1, 2017?

Did NY State of Health properly determine that your enrollment in your gold level qualified health plan ended effective January 31, 2017?

Did NY State of Health properly determine that your enrollment in your silver level qualified health plan began effective February 1, 2017?

## Procedural History

On May 4, 2016, you created your NY State of Health (NYSOH) account and submitted a non-financial application for health insurance through NYSOH.

On May 5, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective June 1, 2016.

Also on May 5, 2016, NYSOH issued a notice of enrollment confirming your enrollment in a gold level qualified health plan with a plan enrollment start date of June 1, 2016.

On October 18, 2016, NYSOH issued a renewal notice stating that you were still qualified to purchase a qualified health plan at full cost through NYSOH, effective

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January 1, 2017. This notice also advised you that you had been re-enrolled into your gold level qualified health plan, and that your premium for 2017 would be \$634.68 per month. This notice further informed you that you would need to make any desired changes between November 15, 2016 and December 15, 2016 for your new plan to be effective January 1, 2017.

On November 18, 2016, NYSOH issued an enrollment notice confirming your reenrollment in your gold level qualified health plan with a plan enrollment start date of January 1, 2017 and a premium responsibility of \$634.68 per month.

On January 2, 2017, you contacted NYSOH and requested to disenroll from your gold level qualified health plan and enroll in a silver level qualified health plan.

Also on January 2, 2017, you contacted the NYSOH Account Review Unit and appealed the date you were disenrolled from your gold level qualified health plan, as well as the date you were enrolled in your silver level qualified health plan, requesting the disenrollment from the gold level qualified health plan be made effective January 1, 2017 and your enrollment in the silver level qualified health plan be made effective January 1, 2017.

On January 3, 2017, NYSOH issued a disenrollment notice indicating that coverage in your gold level qualified health plan would end effective January 31, 2017.

Also on January 3, 2017, NYSOH issued a notice of enrollment confirming your enrollment in a silver level qualified health plan with a plan enrollment start date of February 1, 2017 and a premium responsibility of \$483.44 per month.

On March 27, 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 hearing.

## **Findings of Fact**

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

- 1) You testified that you first enrolled in health insurance through NYSOH in May 2016, at which time you selected a gold level qualified health plan.
- 2) You testified, and the record reflects, that you receive all your notices from NYSOH by regular mail.
- 3) You testified that you did not receive the October 18, 2016 renewal notice from NYSOH advising you that you had been reenrolled into your gold level qualified health plan with a 2017 premium of \$634.68.

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- 4) You testified that you did not receive the November 18, 2016 enrollment notice advising you that the premium for your gold level qualified health plan was \$643.68 per month as of January 1, 2017.
- 5) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 6) You testified that you did not know that your gold level qualified health plan premium had increased until you received your premium bill for January 2017.
- 7) You testified that on either January 1, 2, or 3, 2017 you contacted NYSOH to disenroll yourself from your gold level qualified health plan and enroll yourself in a silver level qualified health plan through NYSOH. The record reflects that this took place on January 2, 2017.
- 8) You testified that you have paid a premium to your qualified health plan for each month that you have been enrolled, including the month of January 2017.
- 9) You testified that you did use your gold level qualified health plan in the month of January 2017.
- 10) You testified that you are seeking retroactive disenrollment from your gold level qualified health plan effective January 1, 2017 and enrollment in your silver level qualified health plan effective January 1, 2017, because of the increase in premium amount for the gold level qualified health plan for 2017.
- 11) Your enrollment in the silver level qualified health plan became effective February 1, 2017.

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

## **Applicable Law and Regulations**

### Annual Eligibility Redetermination

NYSOH must redetermine the eligibility of a qualified individual on an annual basis (45 CFR 155.335(a)(1)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility

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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 information and 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.

If an enrollee remains eligible for a qualified health plan through NYSOH upon annual redetermination and the qualified health plan in which he or she is enrolled remains available through NYSOH, the enrollee will have his or her coverage in their qualified health plan renewed unless the enrollee terminates coverage, including but not limited to, voluntarily selecting a different qualified health plan for enrollment (45 CFR 155.335(j)).

#### 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 under review is whether NYSOH properly reenrolled you into a gold level qualified health plan, effective January 1, 2017.

NYSOH must redetermine a qualified individual's eligibility for health insurance annually. If an individual is found eligible to remain enrolled in a qualified health plan, and the individual's qualified health plan remains available, NYSOH must reenroll the individual into their qualified health plan.

On October 18, 2016, NYSOH issued an annual renewal notice in your case. That notice stated that you were eligible to purchase a full cost qualified health plan through NYSOH, effective January 1, 2017. The notice also advised you that you had been reenrolled into your gold level qualified health plan with a premium of \$634.68 per month, and that you would need to make any desired

changes to your account between November 16, 2016 and December 15, 2016 for any new plan to be effective January 1, 2017.

On November 18, 2016, NYSOH issued an enrollment confirmation notice stating that you were reenrolled in your gold level qualified health plan with a premium of \$634.68 per month.

You testified that you did not receive the October 18, 2016 renewal notice or the November 18, 2016 enrollment confirmation notice. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, the record reflects that NYSOH properly notified you of your annual renewal, your reenrollment into your gold level qualified health plan, and your 2017 premium responsibility of \$634.68 per month.

The November 18, 2016 enrollment notice is, therefore, AFFIRMED.

The second issue under review is whether NYSOH properly determined that your enrollment in your gold level qualified health plan ended effective January 31, 2017.

On January 3, 2017 NYSOH issued a disenrollment notice indicating you would be disenrolled from your qualified health plan effective January 31, 2017.

You testified that you are seeking retroactive disenrollment from your qualified health plan effective January 1, 2017.

NYSOH must permit an enrollee to be retroactively disenroll 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 18, 2016 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 18, 2016 enrollment notice was without your knowledge or consent, as the record reflects

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that NYSOH sent you proper notice of your eligibility redetermination and reenrollment.

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 January 2, 2017 you contacted NYSOH and requested that you be disenrolled from your gold level qualified health plan as you wanted to enroll in a different plan with a lower premium.

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 gold level qualified health plan effective January 31, 2017, 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 January 31, 2017.

Therefore, the January 3, 2017 disenrollment notice is AFFIRMED.

The third issue under review is whether NYSOH properly determined that your enrollment in your silver level qualified health plan was effective February 1, 2017.

The record shows that on January 2, 2017, you submitted a request to enroll in a silver level qualified health plan. On January 3, 2017 NYSOH issued an enrollment confirmation notice stating that your enrollment in your qualified health plan was effective February 1, 2017.

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 selected from the first day to and including fifteenth day of a month goes into effect on the first day of the following month.

Therefore, NYSOH's January 3, 2017 enrollment confirmation notice is AFFIRMED because it properly began your enrollment in your qualified health plan on February 1, 2017.

## **Decision**

The November 18, 2016 enrollment confirmation notice is AFFIRMED.

The January 3, 2017 disenrollment notice is AFFIRMED.

The January 3, 2017 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** March 31, 2017

## **How this Decision Affects Your Eligibility**

NYSOH properly reenrolled you into your gold level qualified health plan as of January 1, 2017.

This decision does not change your disenrollment date. Your enrollment in your gold level qualified health plan ended as of January 31, 2017.

The decision does not change your enrollment date. Your enrollment in your silver level qualified health plan began as of February 1, 2017.

## **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

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- 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 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 November 18, 2016 enrollment confirmation notice is **AFFIRMED**.

NYSOH properly reenrolled you into your gold level qualified health plan as of January 1, 2017.

The January 3, 2017 disenrollment notice is **AFFIRMED**.

This decision does not change your disenrollment date. Your enrollment in your gold level qualified health plan ended as of January 31, 2017.

The January 3, 2017 enrollment confirmation notice is **AFFIRMED**.

The decision does not change your enrollment date. Your enrollment in your silver level qualified health plan began as of February 1, 2017.

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).

## **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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