



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

Notice of Decision

Decision Date: May 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014631

[REDACTED]

Dear [REDACTED],

On April 4, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 28, 2016 disenrollment notice and 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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Decision Date: May 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014631

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Issues

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

Did NY State of Health (NYSOH) properly determine your family's enrollment in your gold level Qualified Health Plan was terminated no earlier than January 31, 2017?

Did NYSOH properly determine your family's enrollment in your silver level Qualified Health Plan became effective no earlier than February 1, 2017?

Procedural History

On December 14, 2015, NYSOH issued an eligibility determination notice stating you and your family were eligible to purchase a Qualified Health Plan (QHP) at full cost through NYSOH, effective January 1, 2016.

Also on December 14, 2015, NYSOH issued an enrollment confirmation notice stating you and your family were enrolled in a gold level QHP with a \$1,359.00 monthly premium and a family dental plan with a \$61.84 monthly premium. According to the notice, this enrollment was effective January 1, 2016.

On October 21, 2016, NYSOH issued a notice stating it was time to renew your health coverage for the upcoming coverage year. The notice indicated you and your family were being automatically reenrolled in the same QHP and dental plan for the next coverage year beginning January 1, 2017. The notice indicated the monthly premium for your QHP in 2017 would be \$1,815.00 and the monthly premium for your family dental plan in 2017 would be \$61.26.

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On November 18, 2016, NYSOH issued an enrollment confirmation notice stating you and your family were enrolled in a gold level QHP with a monthly premium of \$1,815.00 and a family dental plan with a \$61.26 monthly premium, effective January 1, 2017.

On December 27, 2016, NYSOH received your updated application for health insurance.

On December 28, 2016, NYSOH issued an eligibility determination notice stating you and your family were eligible to purchase a QHP at full cost through NYSOH, effective February 1, 2017.

Also on December 28, 2016, NYSOH issued an enrollment confirmation notice, based on your December 27, 2016 plan selection, stating you and your family were enrolled in a silver level QHP with a monthly premium of \$1,388.00 and a family dental plan with a \$61.26 monthly premium, effective January 1, 2017.

Additionally, on December 28, 2016, NYSOH issued a disenrollment notice stating your family's enrollment in your gold level QHP would end on January 31, 2017, because on December 27, 2016 you requested to end your coverage through this plan.

On January 5, 2017, you spoke to the NYSOH Account Review Unit and appealed the coverage start date of your family's silver level QHP insofar as it did not begin January 1, 2017.

On April 4, 2017, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. The record was developed during the hearing and held open until April 18, 2017 to allow you to submit supporting documents. No such documentation was received and the record was closed at the end of business on April 18, 2017.

Findings of Fact

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

- 1) You and your family enrolled in a gold level QHP, effective January 1, 2016. The monthly premium for that plan was \$1,359.00.
- 2) Your family was automatically reenrolled into the same plan for 2017.
- 3) The monthly premium for this plan increased, beginning January 1, 2017, to \$1,815.00.

- 4) NYSOH issued notices on October 21, 2016 and November 18, 2016 indicating the monthly premium for your family's health plan was \$1,815.00, beginning January 1, 2017.
- 5) You testified you moved in July 2016 and your mailing address changed to [REDACTED]
- 6) You testified you had your mail forwarded from your old address to your new address.
- 7) You testified that in 2016 you received all your correspondence from NYSOH by regular mail.
- 8) You testified you did not receive notice from NYSOH that your family's monthly premium for your qualified health plan was increasing for 2017 until December 2016, because the notice was sent to your old address and forwarded to your new address which caused a delay.
- 9) Your account confirms the October 21, 2016 renewal notice indicating the monthly premium for your family's gold level QHP would increase to \$1,815.00, beginning January 1, 2017, was addressed to your previous mailing address.
- 10) Your account confirms the November 18, 2016 enrollment confirmation notice, indicating the monthly premium for your family's gold level QHP would increase to \$1,815.00, beginning January 1, 2017, was addressed to your current mailing address.
- 11) You were directed to submit a copy of the notice you referenced during the hearing showing that the notice you received from NYSOH indicating your family's premium was increasing in 2017 was sent to your previous address. You failed to submit any documentation by the deadline provided.
- 12) Your NYSOH account contains no evidence that any notice issued to you by NYSOH was returned as undeliverable.
- 13) You testified you called NYSOH to switch to a less expensive silver plan as soon as you received the notice from NYSOH indicating your premium was increasing for 2017.
- 14) Your account indicates you contacted NYSOH on December 27, 2016 to switch your family's QHP from a gold level plan to a silver level plan.

- 15) According to your account, your family's enrollment in the gold level QHP ended January 31, 2017 and your family's enrollment in the silver level QHP became effective February 1, 2017.
- 16) You testified you paid the gold level premium payment for January 2017.
- 17) You testified you are seeking to have your family's enrollment in the gold level QHP retroactively terminated back to December 31, 2016. You also want your family's silver level QHP backdated to January 1, 2017.

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)).

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 determined your family's enrollment in your gold level QHP was terminated no earlier than January 31, 2017.

On October 21, 2016, NYSOH issued a renewal notice indicating your family was being automatically reenrolled in your current gold level QHP for the next coverage year beginning January 1, 2017. That notice indicated the monthly premium for this plan was \$1,815.00, an increase from the \$1,359.00 monthly premium for the same plan in 2016. You testified your family moved in July 2016 and your account confirms this notice was addressed to your old mailing address.

You testified you were not aware the monthly premium for your family's QHP was increasing in 2017 until you received a notice from NYSOH in December 2016

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indicating the premium increase. You testified this notice was mailed to your previous mailing address and forwarded to your new address which caused a delay in its receipt. You testified you contacted NYSOH as soon as you received the notice to switch your family's health plan to a less expensive silver level plan.

Your account confirms the October 21, 2016, renewal notice issued by NYSOH was addressed to your last known address. The evidence establishes the November 18, 2016 enrollment confirmation notice, indicating the monthly premium for your family's gold level QHP would increase to \$1,815.00, beginning January 1, 2017, was addressed to your current mailing address. There is no evidence in your account that this notice was returned to NYSOH as undeliverable. Therefore, the evidence establishes NYSOH provided you with adequate notice that your family's monthly premium for your gold level QHP would increase as of January 1, 2017.

Your account indicates you contacted NYSOH on December 27, 2016 to request your family's gold level QHP enrollment be terminated. Your account indicates this enrollment ended January 31, 2017. You testified you are seeking retroactive disenrollment from your family's gold level QHP, effective December 31, 2016, so you can have your family's silver level QHP enrollment backdated to January 1, 2017.

NYSOH must permit an enrollee to be retroactively dis-enroll 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.

As discussed above, the evidence establishes you were provided with adequate notice your family was reenrolled in your gold level QHP for 2017 and that the monthly premium amount was increasing. Accordingly, there is no indication in the record that your family's reenrollment in the gold level QHP for 2017 was unintentional, inadvertent, or erroneous, nor was your family's enrollment 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 your family's reenrollment in the gold level QHP was without your knowledge or consent.

Therefore, there is no basis to find NYSOH must permit you to retroactively terminate or cancel your family's enrollment in your gold level QHP.

You contacted NYSOH on December 27, 2016 to request your family's gold level QHP enrollment be terminated. Although you testified you were seeking to have

this enrollment terminated as of December 31, 2016, according to the above regulations, you failed to provide reasonable notice of your election to terminate this enrollment and; therefore, your family's enrollment in the gold level QHP properly ended January 31, 2017.

Accordingly, the December 28, 2016 disenrollment notice stating your family's enrollment in your gold level QHP would end on January 31, 2017, is correct and must be AFFIRMED.

The second issue is whether NYSOH properly determined your family's enrollment in your silver level QHP became effective no earlier than February 1, 2017.

As discussed above, you contacted NYSOH on December 27, 2016 to enroll your family into a silver level QHP. Your account confirms your family's enrollment in this plan became effective February 1, 2017.

Pursuant to the above cited regulations, the effective date of coverage by a QHP 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. 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.

You selected a silver level QHP for your family on December 27, 2016. As this was after the fifteenth day of the month this enrollment properly became effective on the first day of the second month following December 2016; that is, February 1, 2017.

It is noted that your account confirms your family's enrollment in your silver level QHP became effective February 1, 2017; however, the December 28, 2016 enrollment confirmation notice erroneously states this enrollment is effective January 1, 2017.

Accordingly, the December 28, 2016 enrollment confirmation notice is MODIFIED to reflect your family's enrollment in your silver level QHP became effective February 1, 2017.

Decision

The December 28, 2016 disenrollment notice is AFFIRMED.

The December 28, 2016 enrollment confirmation notice is MODIFIED to reflect your family's enrollment in your silver level QHP became effective February 1, 2017.

Effective Date of this Decision: May 26, 2017

How this Decision Affects Your Eligibility

This decision does not change your family's eligibility.

Your family's enrollment in your gold level QHP ended January 31, 2017.

Your family's enrollment in your silver level QHP became effective 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
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

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 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 December 28, 2016 disenrollment notice is AFFIRMED.

The December 28, 2016 enrollment confirmation notice is MODIFIED to reflect your family's enrollment in your silver level QHP became effective February 1, 2017.

This decision does not change your family's eligibility.

Your family's enrollment in your gold level QHP ended January 31, 2017.

Your family's enrollment in your silver level QHP became effective February 1, 2017

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。我们可以为您免费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)

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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।

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&tumi 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.

שׂוּדִישׁ (Yiddish)

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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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