



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: AP000000014931

[REDACTED]

Dear [REDACTED],

On April 12, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's denial of your request to retroactively disenroll you from your qualified health plan for the month of December 2016.

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

Decision Date: May 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014931

[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 enrollment in your qualified health plan ended effective December 31, 2016 and not December 1, 2016?

Procedural History

On November 22, 2016, NYSOH issued eligibility determination notices stating that you were eligible to purchase a qualified health plan (QHP) at full cost effective January 1, 2017.

On November 24, 2016, NYSOH issued an enrollment notice confirming your enrollment in a gold-level QHP effective January 1, 2017.

On December 9, 2016, NYS Department of Health processed your request to start your gold-level QHP coverage effective December 1, 2016.

On December 12, 2016, you requested the start date of your gold-level QHP start on the original date of January 1, 2017.

On January 18, 2017, you contacted the NYSOH Account Review Unit and appealed the date you were disenrolled from your gold-level QHP insofar as you were not allowed to retroactively disenroll effective December 1, 2016 so that you would not have coverage for the month of December 2016 and be responsible for the monthly premium for that month.

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On April 12, 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 that you turned [REDACTED] years old on [REDACTED] and lost your eligibility for coverage under your parent's health plan effective November 30, 2016.
- 2) According to your NYSOH account and your testimony, you submitted an application for financial assistance on November 21, 2016 and were determined eligible to purchase a full cost QHP effective January 1, 2017 and were enrolled into a plan.
- 3) According to your NYSOH account and your testimony, on November 23, 2106, you requested coverage under the gold-level QHP start on December 1, 2016 instead of January 1, 2017 (see Incident [REDACTED]).
- 4) According to your NYSOH account, your request to have your plan start December 1, 2016 was confirmed with you on November 30, 2016. On that date, your request was forwarded to NYS Department of Health for resolution.
- 5) According to your NYSOH account, on December 9, 2016, a coverage start date override transaction was completed by NYS Department of Health and your gold-level QHP start date was made effective December 1, 2016.
- 6) According to your NYSOH account, no formal enrollment confirmation notice was issued to reflect coverage in your gold-level QHP starting December 1, 2016.
- 7) According to your NYSOH account, on December 12, 2016, a NYSOH representative contacted you to advise that the start date of your gold-level QHP plan had been backdated to December 1, 2016. During this call, you requested that the start date of your gold-level QHP be changed back to the original start date of January 1, 2017. NYSOH opened a new complaint regrading this request and the matter was referred to NYS Department of Health (see Incident [REDACTED]).

- 8) According to your NYSOH account, on December 12, 2016 and December 16, 2016, NYSOH representatives attempted to contact you to advise you that your request to terminate your backdated gold-level QHP for the month of December 2016 would be denied. They were unable to leave a message.
- 9) According to you NYSOH account, you spoke with the Account Review Unit on January 18, 2016 and were informed that your request to terminate your gold-level QHP effective December 1, 2016 was denied. You then requested an appeal of that decision.
- 10) You testified that, because you had not been informed by NYSOH as to whether you would have a December 1, 2016 start date in a timely manner, you contacted your previous health insurance provider and had that plan extended through to December 31, 2016.
- 11) You testified that you also paid premium to your gold-level QHP for the month of December 2016.
- 12) You testified that you did not require the services of any medical provider for the month of December 2016.
- 13) You testified that you are seeking retroactive disenrollment from your gold-level QHP for the month of December 2016 and the return of premium you paid for that month.

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

Applicable Law and Regulations

De Novo Review

The NYSOH Appeals Unit must review each appeal de novo and “consider all relevant facts and evidence adduced during the appeals process” (45 CFR § 155.535(f)). “De novo review means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

Young Adults Coverage Up To Age 26 on Parents’ Plan

Plans and issuers that offer dependent child coverage are required to make that coverage available until the dependent reaches the age of 26 (45 CFR § 147.120(a)(1)). Once a dependent child reaches age 26 and “ages out” of his or her parents’ coverage, they may have several options, including enrolling in an individual plan by themselves through NYSOH.

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Enrollment Periods

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)).

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 (45 CFR § 155.420(d)).

This is permitted when any one of multiple events occurs, including a qualified individual or his or her dependent loses certain health insurance coverage (45 CFR § 155.420(d)(1)). 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)). When an individual loses health insurance coverage, NYSOH must ensure that their coverage effective date is on the first day of the month following the loss of coverage (45 CFR § 155.420 (b)(2)(iv)).

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)).

Legal Analysis

Initially, it is noted that on December 12, 2016, you spoke with NYSOH's Account Review Unit and requested a that your gold-level QHP start date be terminated to be effective December 1, 2016 so that you would not have coverage with that plan for the month of December 2016. On January 18, 2017, you again spoke with NYSOH's Account Review Unit and appeal its denial to disenroll your plan coverage back to December 1, 2016.

The record does not contain a notice of eligibility determination or redetermination on the issue the denial of your request to retroactively terminate your gold-level QHP for the month of December 2016. It does contain a January 19, 2017 notice in which NYSOH acknowledges receipt of an appeal request and identifies the issue on appeal as "Appellant requested for coverage with (gold-level QHP) to be retro dis-enrolled as of 12/1/16."

Here, the lack of a notice of eligibility determination on the issue of NYSOH's denial of your request for retroactive termination of your gold-level QHP for the month of December 2016 does not prevent the Appeals Unit from reaching the merits of the case or constitute material error. Under 45 CFR § 155.505(b), you are as entitled to appeal NYSOH's failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. Your testimony as to your December 12, 2016 disenrollment request back to December 1, 2016 and the text of the January 19, 2017 notice, which

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acknowledges the appeal on the issue of the denial of your request to terminate your gold-level QHP effective December 1, 2016, indicate that NYSOH did deny your retroactive termination request.

Since the Appeals Unit review of NYSOH determinations is performed on a de novo basis, no deference would have been granted to the notice of eligibility determination had it been issued. Therefore, the issue under review is whether NYSOH properly denied your December 12, 2016 request to retroactively terminate your gold-level QHP effective December 1, 2016.

On November 22, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a QHP at full cost effective January 1, 2017. You subsequently enrolled into a gold-level QHP with a January 1, 2017 start date.

On November 23, 2016, you contacted NYSOH and requested a December 1, 2016 start date because you had turned [REDACTED] on [REDACTED] and were losing coverage through your parent's health plan effective November 30, 2016.

On November 30, 2016, NYSOH contacted you and confirmed that you still wanted your gold-level plan to start on December 1, 2016. On that date, NYSOH forwarded your request to NYS Department of Health for resolution. On December 9, 2016, NYS Department of Health completed a coverage start date override transaction and your gold-level QHP start date was made effective December 1, 2016. While no formal enrollment confirmation notice was issued, the record reflects that coverage in your gold-level plan was made effective December 1, 2016.

On December 12, 2016, a NYSOH representative contacted you to advise that your request for a December 1, 2016 start date of your gold-level QHP had been effectuated. At that time, you requested the original January 1, 2017 start date be reinstated. NYSOH then opened a new complaint regarding this request and the matter was referred to NYS Department of Health (see Incident # [REDACTED]). On December 12, 2016 and on December 16, 2016, NYSOH representatives attempted to contact you to advise you that your request to terminate your backdated gold-level QHP for the month of December 2016 was denied but were unable to leave you a message.

On January 18, 2017, you spoke with the Account Review Unit and were informed that your request to terminate your gold-level QHP for the month of December 2016 was denied and you appealed that decision.

You testified that you are seeking retroactive disenrollment from your gold-level QHP effective December 1, 2016 so that you would not have coverage with that plan for the month of December 2016. You further testified that there are no

medical bills from that month. You testified that you are seeking the return of the premium you paid for the month of December 2016 to the gold-level QHP.

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 your gold-level QHP for the month of December 2016 was unintentional, inadvertent, or erroneous, nor was your enrollment in this 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 the gold-level QHP was without your knowledge or consent. Rather, the gold-level QHP coverage start date of December 1, 2016 was the result of your specific request of November 23, 2016 that was further confirmed by NYSOH with you on November 30, 2016.

Therefore, there is no basis to find that NYSOH must permit you to retroactively terminate or cancel your enrollment in your gold-level QHP for the month of December 2016.

The record reflects that on December 12, 2016 a NYSOH representative contacted you to advise you that your request to start your gold-level QHP on December 1, 2016 had been effectuated. It was during this contact that you requested the coverage start date be placed back to the original January 1, 2017 start dated.

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. To be disenrolled as of December 1, 2016, NYSOH would have had to receive your request by November 16, 2016, which is not the case here. Rather, the record reflects that NYSOH received your request on December 12, 2016.

Therefore, NYSOH terminated your insurance coverage with your gold-level QHP effective December 31, 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 gold-level QHP was effective December 31, 2016.

Therefore, the NYSOH's denial of your request to terminate your gold-level QHP effective December 1, 2016 is AFFIRMED.

This decision does not affect any subsequent enrollment or disenrollment notices issued by NYSOH.

Decision

NYSOH's determination that you do not qualify to retroactively terminate your gold-level QHP effective December 1, 2016 is AFFIRMED.

NYSOH's determination that your gold-level QHP terminated December 31, 2016 is AFFIRMED.

This decision does not affect any subsequent enrollment or disenrollment notices issued by NYSOH.

Effective Date of this Decision: May 17, 2017

How this Decision Affects Your Eligibility

You were enrolled in your gold-level QHP from December 1, 2016 to December 31, 2016.

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

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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 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

NYSOH's determination that you do not qualify to retroactively terminate your gold-level QHP effective December 1, 2016 is **AFFIRMED**.

NYSOH's determination that your gold-level QHP terminated December 31, 2016 is **AFFIRMED**.

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 decision does not affect any subsequent enrollment or disenrollment notices issued by NYSOH.

You were enrolled in your gold-level QHP from December 1, 2016 to December 31, 2016.

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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