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

Notice of Decision

Decision Date: April 19, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000014937

[redacted]

Dear [redacted],

On April 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 18, 2016 enrollment notice and January 7, 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.

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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: April 19, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000014937

[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 you and your spouse were enrolled in your qualified health plan from January 1, 2017 through January 31, 2017?

Procedural History

On December 18, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were conditionally eligible to purchase a qualified health plan at full cost effective January 1, 2017. This notice also directed you to submit proof of citizenship for yourself and your spouse by March 17, 2017.

Also on December 18, 2016, NYSOH issued an enrollment notice stating that your and your spouse's enrollment in a qualified health plan was effective January 1, 2017.

On January 6, 2017, updates were made to your application.

On January 7, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were conditionally eligible to purchase a qualified health plan at full cost effective February 1, 2017. This notice also directed you to submit proof of citizenship for yourself and your spouse by March 17, 2017.

On January 7, 2017, NYSOH issued an enrollment notice stating that your and your spouse's enrollment in a qualified health plan was effective January 1, 2017.

On January 18, 2017, you contacted NYSOH and requested to be disenrolled from your and your spouse's qualified health plan for January 1, 2017 through January 31, 2017.

Also on January 18, 2017, you contacted the NYSOH Account Review Unit and appealed insofar as you and your spouse were not disenrolled from your qualified health plan from January 1, 2017 through January 31, 2017.

On April 13, 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 contacted an application counselor in late December 2016 in order to obtain coverage for yourself and your spouse for February 1, 2017.

2) You testified that you explicitly advised the application counselor that you and your spouse were seeking coverage as of February 1, 2017.

3) You explained that the application counselor met with you in your office and during that meeting with the application counselor, you discussed various Fidelis plans, and determined that the Fidelis Care Gold plan was the best option for yourself and your spouse. You further explained that the application counselor took copies of your information in order to process your application.

4) You also testified that you and your spouse previously had coverage outside NYSOH with Empire Blue Cross Blue Shield. You could not recall when that plan ended.

5) You testified that the reason you initially wanted your plan enrollment to begin on February 1, 2017 was because you knew that you and your spouse did not have any doctor's appointments scheduled for January 2017, and it takes at least a month to make such an appointment.

6) Your NYSOH account reflects that on December 17, 2016 a certified application counselor completed your and your spouse's application for health insurance through NYSOH and enrolled you and your spouse into a plan that day.

7) You further stated that the application counselor advised you that your and your spouse's enrollment would begin on February 1, 2017.

8) The record reflects that on January 18, 2017, you contacted NYSOH to disenroll yourself from your qualified health plan through NYSOH for January 1, 2017 through January 31, 2017.

9) You testified that you paid a premium to your qualified health plan for the month of January 2017, however, you thought this payment was going towards your February 2017 premium.

10) You testified that neither you nor your spouse used your qualified health plan in the month of January 2017.

11) You testified that you did not know that you and your spouse had been enrolled into your qualified health plan with a January 1, 2017 start date until you received your insurance cards in the later part of January 2017.

12) You testified that you are seeking retroactive disenrollment from your and your spouse's qualified health plan for the month of January 2017 only.

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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse were enrolled in your qualified health plan from January 1, 2017 through January 31, 2017.

On December 18, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a qualified health plan at full cost effective January 1, 2017. You and your spouse were subsequently enrolled into a qualified health plan.

You testified that you are seeking retroactive disenrollment from your and your spouse's qualified health plan from January 1, 2017 through January 31, 2017.

NYSOH must permit an enrollee to be retroactively disenrolled 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.

You testified that you contacted an application counselor in late December 2016 in order to obtain coverage for yourself and your spouse for February 1, 2017. You credibly testified that you explicitly advised the application counselor that you and your spouse were seeking coverage as of February 1, 2017.

Therefore, the record reflects that your and your spouse's enrollment in a qualified health plan with a January 1, 2017 enrollment start date was the result of the error of a non-NYSOH entity providing enrollment assistance or conducting enrollment activities.

The record reflects that you first contacted NYSOH to retroactively disenroll yourself and your spouse from your qualified health plan for the month of January 2017 on January 18, 2017, which request was within 60 days of your discovery of the erroneous enrollment.

As your and your spouse's enrollment in a qualified health plan with a January 1, 2017 enrollment start date was the result of an error of a non-NYSOH entity providing enrollment assistance or conducting enrollment activities, and you requested cancellation within 60 days of discovering the erroneous enrollment, you and your spouse must be permitted to retroactively terminate your and your spouse's enrollment in your qualified health plan from January 1, 2017 through January 31, 2017.

Therefore, the December 18, 2016 enrollment confirmation notice is RESCINDED.

The January 7, 2017 enrollment confirmation notice is MODIFIED to reflect that your and your spouse's enrollment in your qualified health plan was effective February 1, 2017.

Your case is RETURNED to NYSOH to disenroll you and your spouse from your qualified health plan for the month of January 2017 only. Your and your spouse's enrollment should have begun as of February 1, 2017.

Decision

The December 18, 2016 enrollment confirmation notice is RESCINDED.

The January 7, 2017 enrollment confirmation notice is MODIFIED to reflect that your and your spouse's enrollment in your qualified health plan was effective February 1, 2017.

Your case is RETURNED to NYSOH to disenroll you and your spouse from your qualified health plan for the month of January 2017 only. Your and your spouse's enrollment should have begun as of February 1, 2017.

Effective Date of this Decision: April 19, 2017

How this Decision Affects Your Eligibility

Your case is being sent back to NYSOH to disenroll you and your spouse from your qualified health plan for the month of January 2017 only.

Your and your spouse's enrollment in your qualified health plan begins 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
- 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 December 18, 2016 enrollment confirmation notice is RESCINDED.

The January 7, 2017 enrollment confirmation notice is MODIFIED to reflect that your and your spouse's enrollment in your qualified health plan was effective February 1, 2017.

Your case is RETURNED to NYSOH to disenroll you and your spouse from your qualified health plan for the month of January 2017 only. Your and your spouse's enrollment should have begun as of February 1, 2017.

Your case is being sent back to NYSOH to disenroll you and your spouse from your qualified health plan for the month of January 2017 only.

Your and your spouse's enrollment in your qualified health plan begins as of 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:

[redacted]

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).

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 مجانًا.

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।

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).

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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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.

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).