



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

## Notice of Decision

Decision Date: July 6, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015135

[REDACTED]

Dear [REDACTED]

On June 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 15, 2016 enrollment notice, and May 23, 2017 cancellation 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

Decision Date: July 6, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015135

[REDACTED]

## Issues

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

Did NY State of Health (NYSOH) properly terminate your and your spouse's qualified health plan for non-payment of premium effective, January 1, 2017?

Did NYSOH properly determine that your and your spouse's enrollment in your qualified health plan was effective January 1, 2017?

## Procedural History

On November 22, 2016, NYSOH received your and your spouse's application for health insurance.

On November 23, 2016, NYSOH issued an eligibility determination notice based on your November 22, 2016, application stating you and your spouse were eligible for up to \$407.00 in advance payments of the premium tax credit for a limited time, effective January 1, 2017. The notice asked you to provide proof of your income by December 22, 2016.

On December 14, 2016, you and your spouse were enrolled into a silver level qualified health plan for a cost of \$500.13 per month after the application of \$407.00 in APTC, effective January 1, 2017.

On December 15, 2016, an enrollment notice was issued confirming your and your spouse's enrollment on December 14, 2016, in a silver level health plan for

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a cost of \$500.13 after the application of your premium tax credit would start January 1, 2017.

On December 29, 2016, NYSOH issued a notice stating your and your spouse's eligibility was redetermined on December 28, 2016. The notice stated you and your spouse were determined eligible to purchase a qualified health plan at full cost starting February 1, 2017.

Also on December 29, 2016, an enrollment notice was issued confirming your and your spouse's enrollment in a silver level qualified health plan for a cost of \$907.13 per month with no application of the advance premium tax credit starting January 1, 2017.

On January 9, 2017, NYSOH issued an eligibility determination notice based on your updated application on January 8, 2017 stating you and your spouse qualified for advance payments of the premium tax credit of up to \$547.00 per month starting February 1, 2017.

On January 9, 2017, NYSOH issued an enrollment notice confirming your and your spouse's enrollment in a silver level qualified health plan starting January 1, 2017.

On January 25, 2017, you contacted the NYSOH Account Review Unit and appealed the start date of your and your spouse's qualified health plan, requesting a start date of February 1, 2017.

On May 23, 2017, a disenrollment notice was issued stating you and your spouse's enrollment in your silver level qualified health plan ended on January 1, 2017 because you did not pay your insurance bill by the payment deadline.

On June 6, 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 were enrolled in a qualified health plan for the 2017 coverage year with a monthly premium of \$500.13, effective January 1, 2017.
- 2) On December 14, 2016, your Navigator enrolled you and your spouse in a health plan.

- 3) You testified you were unaware that your Navigator had enrolled you and your spouse in a plan on December 14, 2016, for a January 1, 2017 start date. You explained you only authorized her to enroll you both for a February 1, 2017 start date.
- 4) You testified you found out about the enrollment for the month of January 2017 when you returned from vacation in January, 2017, and filed an appeal.
- 5) You testified you paid your first month's premium for February, 2017, and are still being told by your health plan that you owe a premium responsibility for the month of January 2017 in the amount of \$500.13.
- 6) You and your spouse were disenrolled from your qualified health plan, effective January 1, 2017 for failing to pay your premium by the payment deadline.
- 7) You testified you receive your notices from NYSOH via regular U.S. Mail.
- 8) No notices in your account have been returned to NYSOH as undeliverable.
- 9) You testified your address has not changed since your initial application to NYSOH.
- 10) You reside in [REDACTED].

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

## **Applicable Law and Regulations**

### Appealable Issues

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

## 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)).

NYSOH must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan and enrollees may change qualified health plans (45 CFR § 155.410(a)(1)).

For the benefit year beginning on January 1, 2017, the annual open enrollment period began on November 1, 2016, and extended through January 31, 2017 (45 CFR § 155.410(e)(2)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly terminated your and your spouse's qualified health plan for non-payment of premium effective, January 1, 2017.

On December 14, 2016, you and your spouse were enrolled in a qualified health plan for the 2017 coverage year with a monthly premium of \$500.13 after the application of \$407.00 in APTC, effective January 1, 2017.

You testified that you paid your premiums to your qualified health plan for February, 2017. However, you were not aware of an enrollment made for January, 2017, as your Navigator had enrolled you without your permission or knowledge.

On May 23, 2017, a disenrollment notice was issued stating you and your spouse's enrollment in your Silver level qualified health plan ended on January 1, 2017 because you did not pay your insurance bill by the payment deadline.

NYSOH Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility

determination for an exemption, (4) a failure to provide timely notice of an eligibility determination and (5) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether or not you were properly terminated from your health plan for non-payment of premiums. Therefore, your appeal of the May 23, 2017 cancellation notice is DISMISSED as a non-appealable issue.

The second issue under review is whether NYSOH properly determined that you and your spouse's enrollment in your qualified health plan was effective January 1, 2017.

On December 14, 2016, your Navigator updated the information in your NYSOH account and submitted a request to enroll in a qualified health plan. On December 15, 2016 NYSOH issued an enrollment confirmation notice stating that you and your spouse's enrollment in your qualified health plan was effective January 1, 2017 and that APTC would be applied to your monthly premium effective January 1, 2017.

During your telephone hearing, you testified that you and your spouse's enrollment was made without authorization by your Navigator on December 14, 2016. You explained that you had been on vacation and only realized you had been enrolled for the month of January, 2017 when you received a bill from your health plan showing you owed a premium amount.

The record does not contain sufficient evidence to make a finding that your Navigator was unauthorized to enroll yourself and your spouse into a qualified health plan effective January 1, 2017. The record only contains your testimony and notices in which NYSOH issued via regular U.S. mail to the address you had on file. You testified your address has not changed. Additionally, no notices have been returned as undeliverable to your account. Therefore, it is determined NYSOH provided you sufficient notification alerting you to the actions taken by the Navigator in your account.

Since it is determined you and your spouse were enrolled in a qualified health plan on December 14, 2016, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. For selections received by NYSOH from the first to the fifteenth of any month, the effective date of the plan is first day of the following month, which was January 1, 2017.

Therefore, NYSOH's December 15, 2016 enrollment confirmation notice properly stated your and your spouse's enrollment in your qualified health plan as well as your advance premium tax credits would begin January 1, 2017 and 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).

## **Decision**

The May 23, 2017 cancellation notice is DISMISSED as a non-appealable issue.

The December 15, 2016 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** July 6, 2017

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

You and your spouse were enrolled in a qualified health plan with APTC effective January 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 May 23, 2017 cancellation notice is DISMISSED as a non-appealable issue.

The December 15, 2016 enrollment confirmation notice is AFFIRMED.

You and your spouse were enrolled in a qualified health plan with APTC effective January 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)

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).

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 bɛtumi ama wo obi a okyerɛ 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 איר געבן א דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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