



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

Notice of Decision

Decision Date: May 2, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015268

[REDACTED]

Dear [REDACTED]

On April 3, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 26, 2016 disenrollment 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).

This page intentionally left blank.



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

Decision

Decision Date: May 2, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015268

[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 and your spouse's enrollment in your qualified health plan (QHP) ended effective November 30, 2016?

Procedural History

On December 10, 2015, NYSOH issued an enrollment notice confirming your and your spouse's enrollment in a couple's gold-level QHP, with the application of advance payments of the premium tax credit to your monthly premium, effective January 1, 2016.

On October 19, 2016, NYSOH issued a renewal notice, stating that it was time to renew your application for financial assistance so that a determination could be made as to your eligibility for coverage in 2017.

On October 25, 2016, you updated your NYSOH account and indicated that you and your spouse did not need health insurance.

On October 26, 2016, NYSOH issued a disenrollment notice indicating that your, and your spouse's, coverage in your QHP would end effective November 30, 2016 because you were no longer eligible to enroll in health insurance through NYSOH.

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).

On January 27, 2017, you contacted the NYSOH Account Review Unit and appealed the date you were disenrolled from your QHP, requesting the disenrollment be made effective October 31, 2016.

On April 3, 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 for fifteen days at the end of the hearing to give you the opportunity to submit proof of when your health insurance coverage through your spouse's employer began. On April 10 and April 12, 2017, you uploaded documentation to your NYSOH account. No further documentation was submitted, and the record is now closed.

Findings of Fact

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

- 1) You testified your spouse began a new job at the end of September 2016.
- 2) You testified that you and your spouse became eligible for health insurance coverage through his new employer immediately, but that it took a while for you to go through the options and complete the enrollment process.
- 3) You testified that your insurance enrollment through your spouse's employer was completed at the end of October 2016, and your coverage was going to begin immediately.
- 4) You testified that you paid your October 2016 QHP premium, and are not looking for your and your spouse's coverage to be terminated for that month, but for it to be terminated as of October 31, 2016.
- 5) You testified that you contacted NYSOH on October 25, 2016 to find out how to cancel your QHP coverage because there was no information on NYSOH's website or in your health plan documentation about how to do so.
- 6) You testified that the person you spoke with at NYSOH stated that they could assist you with cancelling your coverage over the phone. You testified that, at the end of the call, you were assured by the NYSOH representative that your coverage was cancelled immediately, and that you did not need to call your plan or pay your November 2016 QHP premium.

- 7) You testified that you informed the NYSOH representative you were speaking with that you wanted to cancel your coverage because you and your spouse now had employer-sponsored health insurance coverage.
- 8) You testified that your spouse paid for coverage for both of you through his employer-sponsored insurance beginning November 2016.
- 9) You testified that, approximately two weeks after you called NYSOH to cancel your coverage, you received a notice from your QHP stating that you needed to pay your QHP premium for November.
- 10) You testified that you immediately contacted your QHP, and the person you spoke with said "You're right, you're cancelled," and told you that you did not need to pay the November invoice.
- 11) You testified that, two to three weeks later, you received another notice from your QHP stating that you had to pay. You testified that you called again, and were again told that your coverage was cancelled, and you could disregard the notice.
- 12) Your NYSOH account reflects that NYSOH issued a notice on October 26, 2016 stating that your QHP coverage was terminated as of November 30, 2016.
- 13) You testified that you did not see this notice right away because you received two notices from NYSOH that same day and only read one of them.
- 14) You testified that, since both the NYSOH representative and the representatives you spoke with from your QHP told you that your coverage was cancelled for November 2016, and since your QHP told you to disregard the notices sent by them, you believed that the information given to you verbally was accurate.
- 15) You testified that you received a debt collection notice on January 17, 2017 stating that the \$776.02 QHP premium for November 2015 is in collections.
- 16) You testified that your QHP told you that they could not do anything, and you would have to resolve the issue through NYSOH.
- 17) You testified that NYSOH told you that, if your QHP was willing to waive the November premium payment, they would backdate the termination date.

- 18) You testified that you made multiple phone calls, and, each time you called, NYSOH and your QHP kept referring you back and forth.
- 19) You testified that you have been speaking with your QHP and the debt collection agency, and they have agreed not to take any action until your appeal through NYSOH is resolved.
- 20) Notes entered by a NYSOH representative in Incident [REDACTED] on January 27, 2017 state, “[Appellant] called on the 25th of October to cancel her plan for an end date of 10/31/2016, appellant claims to have been informed that her plan would end as of 10/31/2016 but the plan didn’t end til 11/30/2016. Due to the timeframe that the appellant called, her plan would have ended on the 30th of November unless she was enrolling into an Employer Sponsored Insurance. That was not the case the appellant was just cancelling her plan.”
- 21) After the hearing, you uploaded the following documentation to your NYSOH account:
- a. A 1095-C showing that you and your spouse had employer-sponsored health insurance beginning September 2016 (Document [REDACTED]);
 - b. A letter written to the NYSOH Appeals Unit by you stating that you and your spouse were covered by your spouse’s insurance as of September 2016, but that you were not able to begin using that coverage until November 1, 2016 (Document [REDACTED]; and
 - c. A Certificate of Group Health Plan Coverage from Anthem Blue Cross Blue Shield dated April 5, 2017 showing that you and your spouse have coverage through Anthem effective September 26, 2016, with no coverage termination date (Document [REDACTED]).

These three documents are marked and entered collectively into the record as “Appellant’s Exhibit One.”

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 QHP with appropriate notice to NYSOH or the QHP (45 CFR § 155.430(b)(1)(i)).

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).

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 QHP 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 QHP 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 QHP 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 QHP 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 QHP 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 your enrollment in your QHP ended effective November 30, 2016.

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).

On December 10, 2015, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a QHP, and that your advance premium tax credit was being applied to your monthly premium effective January 1, 2016.

On October 26, 2016, NYSOH issue a disenrollment notice indicating you and your spouse would be disenrolled from your QHP effective November 30, 2016.

You testified that you are seeking retroactive disenrollment from your QHP effective October 31, 2016.

NYSOH must permit an enrollee to be retroactively disenrolled from their QHP 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 QHP without their knowledge or consent by a third party.

There is no indication in the record that your enrollment in a QHP, as confirmed in the December 10, 2015 enrollment notice, was unintentional, inadvertent, or erroneous, nor was your enrollment in a 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 a QHP as confirmed in the December 10, 2015 enrollment notice was without your knowledge or consent.

However, you testified during the hearing that you had requested that your QHP coverage be terminated on October 25, 2016 because you and your spouse had coverage outside of NYSOH through his employer. You testified that you became eligible for that coverage as of September 2016, but were first able to enroll in that coverage as of November 1, 2016. The 1095-C and Certificate of Group Health Plan Coverage that you uploaded after the hearing confirms this information (Appellant's Exhibit One). Moreover, you testified that you informed NYSOH that this was the reason that you were terminating your NYSOH coverage.

You testified that you were assured by both NYSOH and your QHP that your coverage had been cancelled as of the day on which you called (October 25, 2016), but that you were nevertheless billed by your QHP: a bill that is now in collections. You testified that you enrolled in and paid for November 2016 coverage through your spouse's employer, so you do not want to have to pay for coverage through NYSOH as well for the month of November 2016.

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).

In Incident # [REDACTED], a NYSOH employee indicated that, due to the date on which you called to cancel your coverage, the coverage end date would be November 30, 2016, unless you were canceling coverage because you were enrolling in employer-sponsored insurance. The note went on to say that this was not the case.

Since your testimony, and the documentation you provided after the hearing, show that you canceled your NYSOH coverage on October 25, 2016 because you had coverage through your spouse's employer as of November 1, 2016, your case is being RETURNED to NYSOH to re-evaluate your request for an October 31, 2016 end date for your, and your spouse's, QHP coverage.

NYSOH will notify you in writing of its decision.

Decision

Your case is RETURNED to NYSOH to re-evaluate your eligibility for an October 31, 2016 end date for your, and your spouse's, QHP enrollment, given that you were canceling coverage because you were both newly enrolled in employer-sponsored health insurance.

NYSOH is directed to issue a notice in writing notifying you of your QHP coverage termination date.

Effective Date of this Decision: May 2, 2017

How this Decision Affects Your Eligibility

This decision is not a final determination of your QHP coverage disenrollment date.

Your case is being sent back to NYSOH to re-evaluate your request for an October 31, 2016 QHP coverage end date, given that you and your spouse were covered by an employer-sponsored health plan as of November 1, 2016.

NYSOH will notify you of the disenrollment date in writing.

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

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).

Albany, NY 12211

- By fax: 1-855-900-5557

Summary

Your case is RETURNED to NYSOH to re-evaluate your eligibility for an October 31, 2016 end date for your, and your spouse's, QHP enrollment, given that you were canceling coverage because you were both newly enrolled in employer-sponsored health insurance.

NYSOH is directed to issue a notice in writing notifying you of your QHP coverage termination date.

This decision is not a final determination of your QHP coverage disenrollment date.

Your case is being sent back to NYSOH to re-evaluate your request for an October 31, 2016 QHP coverage end date, given that you and your spouse were covered by an employer-sponsored health plan as of November 1, 2016.

NYSOH will notify you of the disenrollment date in writing.

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।

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 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.

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).