



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

## Notice of Decision

Decision Date: June 01, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015303

[REDACTED]

Dear [REDACTED],

On April 21, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 31, 2017 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).

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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: June 01, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015303



## Issues

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 January 31, 2017?

## Procedural History

On October 17, 2016, NYSOH issued a renewal notice stating that you were automatically re-enrolled in the UnitedHealthcare (UHC) gold-level qualified health plan (QHP) that you had in 2016, at full cost for the upcoming policy year effective as of January 1, 2017.

On November 17, 2016, NYSOH issued a plan enrollment notice confirming you were enrolled in the UHC gold-level QHP with a plan enrollment start date of January 1, 2017. The notice further stated that, if you have a monthly premium, you will receive an invoice from your health plan and must pay the monthly premium to start and keep your coverage.

On January 31, 2017, NYSOH issued a disenrollment notice indicating that coverage in your UHC gold-level QHP would end on January 31, 2017, based on your January 30, 2017 request to end coverage.

Also on January 31, 2017, NYSOH issued a notice acknowledging your appeal request of January 30, 2017, insofar as you had been denied retroactive disenrollment from your UHC gold-level QHP as of January 1, 2017.

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 April 21, 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 to allow you to submit supporting documentation.

The Appeals Unit received three separate facsimiles from you: (1) A four-page facsimile, received April 19, 2017, that was made part of the record as "Appellant's Exhibit A;" (2) A three-page facsimile, received April 21, 2017, that was made part of the record as "Appellant's Exhibit B;" and (3) A four-page facsimile, received May 2, 2017, that was made part of the record as "Appellant's Exhibit C." The record is now closed.

## **Findings of Fact**

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

- 1) According to your NYSOH account, you had coverage in a gold-level QHP through NYSOH in 2016.
- 2) You testified that you received the October 17, 2016 renewal notice and understood coverage with UHC in 2017 would not take effect unless timely payment of the premium was made.
- 3) You further testified, since you had no intention to renew your coverage with UHC, you did not pay the January 2017 premium for coverage to start and UHC has not contacted you in any manner to request or demand that you pay the premium for that month.
- 4) You testified, and submitted documentary proof from UHC to show, that your and your spouse's health insurance coverage with UHC terminated as of December 31, 2016 (Appellant's Exhibit A, pp. 2-3).
- 5) According to your testimony and your Exhibit A, on February 21, 2017, UHC issued a claims detail regarding medical services you received on [REDACTED], which claim was denied for the following reason: "We do not show coverage for you at the time this claim was processed" (Appellant's Exhibit A, p. 4). You testified your doctor had sent the claim to UHC in error.
- 6) You testified and submitted documentary proof to show, that, effective January 1, 2017, you and your spouse were covered by a different health plan and paid premiums to that plan for coverage to start as of that date. (Appellant's Exhibit B, p. 3; Appellant's Exhibit C, p. 3).
- 7) You testified that your new health plan for 2017 paid the January 2017 claim that was denied by UHC.

- 8) According to your NYSOH account and your testimony, on January 30, 2017, you contacted NYSOH to disenroll yourself from your qualified health plan through NYSOH.
- 9) You testified that you are seeking to have NYSOH correct its records to show your disenrollment from the UHC gold-level QHP you had in 2016, ended effective December 31, 2016, and not as of January 31, 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)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your enrollment in your qualified health plan ended effective January 31, 2017.

On November 17, 2016, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a QHP at full cost, effective January 1, 2017.

On January 31, 2017, NYSOH issue a disenrollment notice indicating you and your spouse would be disenrolled from your QHP effective January 31, 2017.

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

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.

The record indicates that UHC acknowledged your plan disenrollment date of December 31, 2016 by its own missives and denied your claim for treatment on [REDACTED], because they did not show coverage for you at the time the claim was processed. Further, you credibly testified that you purposely did not

pay the January 2017 premium to UHC understanding that coverage through that health plan would not start without timely payment and that, rather, you enrolled yourself and your spouse in a different health plan through a different insurance company with a January 1, 2017 start date. The documentation you provided to this effect corroborates your testimony.

Therefore, the credible evidence of record reasonably supports the conclusion that the plan disenrollment date of January 31, 2017 from your UHC gold-level QHP was unintentional, inadvertent, or erroneous, nor was your enrollment in a qualified health plan 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, since you credibly testified that you had no intention of renewing with UHC, your enrollment in a UHC gold-level QHP as confirmed in the November 17, 2016 plan enrollment notice was without your knowledge or consent.

Therefore, there is ample basis to find that NYSOH must permit you to retroactively terminate or cancel your enrollment in a qualified health plan.

The record reflects that, on January 30, 2017, you contacted NYSOH and requested that you be disenrolled from your UHC gold-level QHP as you were enrolled in a different health plan through a different insurance company with your spouse as of January 1, 2017, and no longer wanted to remain enrolled through UHC.

Ordinarily, enrollees must be allowed to terminate their coverage with a qualified health plan 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.

The record reflects that NYSOH terminated your insurance coverage with your qualified health plan effective January 31, 2017, based on your January 30, 2017 request made to NYSOH. However, documentary evidence supports that UHC acknowledged your coverage ended as of December 31, 2016. Since the health plan has the authority under law to permit a retroactive end date, the December 31, 2016 end date provided by UHC should be honored.

Therefore, the January 31, 2017 disenrollment notice is MODIFIED to reflect that coverage in your UHC gold-level QHP ended December 31, 2016.

Your case is RETURNED to NYSOH to effectuate this change and to notify you accordingly.

## **Decision**

The January 31, 2017 disenrollment notice is MODIFIED to reflect that coverage in your UHC gold-level QHP ended December 31, 2016.

Your case is RETURNED to NYSOH to effectuate this change and to notify you accordingly.

**Effective Date of this Decision:** June 01, 2017

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

This decision changes your disenrollment date from your UHC gold-level QHP from January 31, 2017 to December 31, 2016.

NYSOH will notify you once the disenrollment date has been corrected.

## **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

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).



- 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 January 31, 2017 disenrollment notice is MODIFIED to reflect that coverage in your UHC gold-level QHP ended December 31, 2016.

Your case is RETURNED to NYSOH to effectuate this change and to notify you accordingly.

This decision changes your disenrollment date from your UHC gold-level QHP from January 31, 2017 to December 31, 2016.

NYSOH will notify you once the disenrollment date has been corrected.

### **Legal Authority**

We are issuing this determination in accordance with 45 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).

**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 مجانًا.

### **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).

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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&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.

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).