



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

## Notice of Decision

Decision Date: May 24, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015363

[REDACTED]

Dear [REDACTED],

On May 2, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 7, 2017 enrollment notice and February 1, 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: May 24, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015363



## 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 the qualified health plan coverage for you and your spouse began effective January 1, 2017?

Does NYSOH Appeals Unit have the authority to determine whether the qualified health plan coverage was properly cancelled, effective January 1, 2017, for non-payment of premiums?

## Procedural History

On January 3, 2017, NYSOH received your application for health insurance. In response to this application, NYSOH prepared a preliminary eligibility determination stating that you and your spouse were eligible to enroll in a qualified health plan (QHP) at full cost, effective February 1, 2017.

Also on January 3, 2017, you provided to NYSOH (1) a letter issued to you by your former insurance carrier, Emblem Health, dated November 28, 2016, confirming that your family's employer-sponsored health insurance would terminate, effective January 1, 2017.

Also on January 3, 2017, NYSOH records reflect that a request was filed on your behalf to backdate the start of insurance coverage for you and your spouse from February 1, 2017 to January 1, 2017. This request was ultimately approved by NYSOH on January 17, 2017.

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On January 4, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in a QHP at full cost, effective February 1, 2017.

Also on January 4, 2017, NYSOH issued an enrollment notice confirming your selection of a QHP for you and your spouse as of January 3, 2017. The notice stated that your coverage would begin effective February 1, 2017.

On January 6, 2017, NYSOH reran your eligibility for health insurance.

On January 7, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in a QHP at full cost, effective February 1, 2017.

Also on January 7, 2017, NYSOH issued an enrollment notice confirming your selection of a QHP for you and your spouse as of January 6, 2017. The notice stated that your coverage would begin effective February 1, 2017.

Your enrollment details reflect that on January 17, 2017, the start date of QHP coverage for you and your spouse was backdated from February 1, 2017 to January 1, 2017.

On January 18, 2017, NYSOH records reflect that an additional request was filed on your behalf to reverse the backdate of the QHP coverage for you and your spouse from February 1, 2017 to January 1, 2017. This request was denied by NYSOH on January 30, 2017.

On February 1, 2017, NYSOH issued a cancellation notice stating that coverage for you and your spouse under your QHP was cancelled effective January 1, 2017 for non-payment of premiums.

Also on February 1, 2017, you spoke to NYSOH's Account Review Unit and appealed the cancellation notice insofar as you were seeking a reinstatement of QHP coverage for you and your spouse as of February 1, 2017.

On May 2, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

## Findings of Fact

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

- 1) The employer-sponsored health insurance for you and your spouse ended effective January 1, 2017.
- 2) You submitted your initial application to NYSOH for financial assistance on January 3, 2017. Because of this application, you and your spouse were found eligible to enroll in a QHP, effective February 1, 2017.
- 3) You testified, and your application reflects, that you selected a qualified health plan on January 3, 2017.
- 4) You testified, and your account reflects, that that on January 3, 2017, you requested that NYSOH backdate the QHP coverage for you and your spouse to January 1, 2017. This request was approved on January 17, 2017.
- 5) You testified that you were not notified of the approval of the backdate request until about January 25, 2016; however, the record reflects that NYSOH notified you by telephone of this approval on January 18, 2017.
- 6) Your account reflects that you requested to reverse the backdate request on January 18, 2017. The request was denied on January 30, 2017.
- 7) You testified that since you were notified of the backdating approval until the latter part of January 2017, the backdating of coverage for you and your spouse became moot since you were unable to make any further appointments during January 2017, and you had been intentionally avoiding making appointments until the approval had been provided.
- 8) You testified that the insurance carrier would not permit you to pay for coverage during February 2017 alone, but would only accept payments for both January and February 2017 before permitting you to enroll for the remainder of 2017.
- 9) The QHP coverage for you and your spouse was cancelled effective January 1, 2017.
- 10) You testified that you needed for the QHP coverage to begin effective February 1, 2017 since you and your spouse had incurred bills during that month, and were seeking to remain enrolled in that plan for the remainder of the 2017 plan year.

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

## **Applicable Law and Regulations**

### 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)).

### Valid Appeal Requests

An applicant has the right to appeal to the Appeals Unit of NYSOH: (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 the Exchange to provide timely notice of an eligibility determination; and (5) the denial of a request for a special enrollment period (45 CFR § 155.505, 45 CFR § 155.420(d)).

### Special Enrollment Periods

After each open enrollment period ends, NYSOH may provide special enrollment periods to qualified individuals for various reasons. One of these reasons is if the enrollment (or non-enrollment) in a qualified health plan is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, misconduct, or inaction of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities (45 CFR § 155.420(d)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that QHP coverage for you and your spouse began effective January 1, 2017.

The record shows that January 3, 2017 you updated the information in your NYSOH account and submitted a request to enroll you and your spouse in a QHP.

The date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the first day to and including fifteenth day of a month goes into effect on the first day of the following month.

On January 4, 2017, NYSOH issued an enrollment notice stating that you and your spouse's enrollment in your QHP was effective February 1, 2017.

The record further reflects that that on January 3, 2017, you requested that NYSOH backdate the QHP coverage for you and your spouse to January 1, 2017. This request was ultimately approved on January 17, 2017, and you were notified about the approval on the following day.

The plan issuer can, in its sole discretion, agree to provide a backdate of your coverage. While the evidence of record indicates that you were not notified of such an approval until January 18, 2017, we find there is sufficient evidence that NYSOH and the insurance carrier acted on your request in a timely and reasonable manner. Therefore, the January 7, 2017 enrollment notice, as amended by the approval of your backdating request, properly found you and your spouse eligible for enrollment in the QHP beginning January 1, 2017.

The January 7, 2017 enrollment notice, as amended by the January 17, 2017 approval of your request to backdate QHP coverage to January 1, 2017, is **AFFIRMED**.

The second issue under review is whether NYSOH Appeals Unit has the authority to determine whether the QHP coverage of you and your spouse was properly cancelled, effective January 1, 2017 for non-payment of premiums.

You testified that after NYSOH denied your request to reverse the backdating to January 1, 2017 due to the time it took to get confirmation of its approval, the insurance carrier refused to accept a premium just for February 2016, but rather insisted on receiving the premium payments for both January and February 2017.

On February 1, 2017, NYSOH issued a notice stating that you were disenrolled from your health plan for non-payment of the premium, effective January 1, 2017.

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

Since the Appeals Unit is not given the authority to review cancellation of enrollment due to non-payment of premiums, we cannot reach the merits as to whether you and your spouse were properly terminated from your health plan for non-payment of premiums. Therefore, your appeal of the February 1, 2017 cancellation notice is DISMISSED as a non-appealable issue.

We find, however, that NYSOH represented to you that you would be responsible for all bills prior to the approval of your coverage, but failed to advise you that approval would not come until the month was nearly over and you would still owe the premium for that month, and that this constituted an error on the part of NYSOH. Therefore, you and your spouse are awarded a special enrollment period to select a plan for the remainder of the 2017 plan year.

You and your spouse have 60 days from the date of this Decision to select a health plan.

## **Decision**

The January 7, 2017 enrollment notice, as amended by the January 17, 2017 approval of your request to backdate QHP coverage to January 1, 2017, is AFFIRMED.

Your appeal of the February 1, 2017 cancellation notice is DISMISSED as a non-appealable issue

You and your spouse are awarded a special enrollment period to select a plan for the remainder of the 2017 plan year.

**Effective Date of this Decision:** May 24, 2017

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

You and your spouse's QHP coverage was cancelled effective January 1, 2017.

You and your spouse have sixty (60) days to select a health plan from the date of this Decision.



## **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**

The January 7, 2017 enrollment notice, as amended by the January 17, 2017 approval of your request to backdate QHP coverage to January 1, 2017, is **AFFIRMED**.

Your appeal of the February 1, 2017 cancellation notice is **DISMISSED** as a non-appealable issue

You and your spouse are awarded a special enrollment period to select a plan for the remainder of the 2017 plan year.

You and your spouse's QHP coverage was cancelled effective January 1, 2017.

You and your spouse have sixty (60) days to select a health plan from the date of this Decision.

## **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.

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