



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

Notice of Decision

Decision Date: July 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015510

[REDACTED]

Dear [REDACTED],

On May 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 5, 2016, disenrollment notice, December 6, 2016, enrollment notice, and April 7, 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).

This page intentionally left blank.

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

Decision

Decision Date: July 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015510

[REDACTED]

Issues

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

Did NY State of Health properly determine that your spouse's enrollment in [REDACTED] qualified health plan ended effective December 1, 2016.?

Did NY State of Health properly determine your spouse's enrollment in [REDACTED] qualified health plan was effective January 1, 2017?

Did NY State of Health properly terminate your spouse's qualified health plan for non-payment of premium effective, February 28, 2017?

Procedural History

You and your spouse were enrolled in a Gold level qualified health plan effective January 1, 2016.

On November 5, 2016, NY State of Health (NYSOH) issued a notice stating you and your spouse were no longer eligible for health insurance through NYSOH effective December 1, 2016. The notice stated this was because you no longer wanted to receive coverage through NYSOH.

On November 5, 2016, an eligibility determination notice was issued stating your spouse was eligible to purchase a qualified health plan at full cost effective December 1, 2016. The notice stated [REDACTED] may be able to enroll in coverage if [REDACTED] qualified for a special enrollment period.

On November 5, 2016, a disenrollment notice was issued stating your and your spouse's enrollment in your Gold level qualified health plan would end effective November 30, 2016.

On December 6, 2016, an eligibility determination notice was issued stating your spouse was eligible to purchase a qualified health plan at full cost effective January 1, 2017.

On December 6, 2016, NYSOH issued a notice stating your spouse was enrolled in a Platinum level qualified health plan for a cost of \$688.00 per month starting January 1, 2017.

On February 3, 2017, you contacted the NYSOH Account Review Unit and appealed your spouse's disenrollment from her 2016 qualified health plan, as well as the start date of her enrollment for 2017.

On April 7, 2017, NYSOH issued a disenrollment notice stating your spouse's Platinum level qualified health plan ended effective February 28, 2017 because you did not pay your insurance bill by the payment deadline.

On May 31, 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 are seeking insurance for your spouse.
- 2) You testified you had contacted NYSOH on November 4, 2016 to update your application and add that you were now eligible for Medicare as you would be turning [REDACTED] on [REDACTED].
- 3) NYSOH disenrolled both you and your spouse from your Gold level qualified health plan effective December 1, 2016.
- 4) On December 30, 2016, a NYSOH representative enrolled your spouse back into [REDACTED] Gold level qualified health plan for the month of December, 2016.
- 5) On December 5, 2016, your spouse was enrolled in a Platinum level qualified health plan for the 2017 coverage year with a monthly premium of \$688.00, effective January 1, 2017.

- 6) On February 3, 2017 Incident 27889755 was filed in which you told a NYSOH representative that since your spouse was unable to use [REDACTED] insurance for December 2016, and January 2017, you wanted [REDACTED] enrollments removed from [REDACTED] file and wanted an effective date of February 1, 2017.
- 7) Your NYSOH account shows a NYSOH representative canceled your spouse's backdate for December 2016 on April 11, 2017.
- 8) You testified you are now seeking a two-month credit and a new start date for your spouse's enrollment.
- 9) Your spouse was disenrolled from [REDACTED] qualified health plan effective February 28, 2017, for non-payment of premium.
- 10) You testified your health plan told you if you paid premiums for April and May, 2017 [REDACTED] would be reinstated in [REDACTED] health plan.
- 11) You testified that your spouse has been unable to use [REDACTED] health plan since January, 2017.
- 12) Your spouse's NYSOH account shows [REDACTED] was disenrolled from [REDACTED] qualified health plan for the month of December, 2016.
- 13) Your spouse's NYSOH account shows [REDACTED] is enrolled in [REDACTED] Platinum level qualified health plan effective January 1, 2017.

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 the Exchange 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

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).

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)).

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 first issue under review is whether NYSOH properly determined that your spouse's enrollment in [REDACTED] qualified health plan ended effective December 1, 2016.

You and your spouse were enrolled in a gold level qualified health plan effective January 1, 2016.

You testified you contacted NYSOH on November 4, 2016 to update your application and add that you were now eligible for Medicare as you would be turning [REDACTED] on [REDACTED]. As a result, both you and your spouse were disenrolled from your gold level qualified health plan effective December 1, 2016.

On December 30, 2016, an NYSOH representative enrolled your spouse back into [REDACTED] Gold level qualified health plan for the month of December, 2016.

You contacted NYSOH on February 3, 2017, and filed an incident in which you told a NYSOH representative that since your spouse was unable to use [REDACTED] insurance for December 2016, you wanted [REDACTED] enrollment removed from [REDACTED] file.

On April 11, 2017, a NYSOH representative canceled your spouse's backdate for the month of December, 2016 and your account now shows [REDACTED] was not enrolled for the month of December per your request.

As a result, a full analysis of the merits of your appeal on the issue of your spouse's disenrollment from [REDACTED] gold level qualified health plan for the month of December 2016 is not necessary. Your spouse's gold level qualified health plan ended December 1, 2016 as per your February 3, 2017 request, and the November 5, 2016, disenrollment notice confirming this is AFFIRMED.

The second issue under review is whether NYSOH properly determined your spouse's enrollment in her platinum level qualified health plan was effective 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 December 5, 2016, your spouse was enrolled in a platinum level qualified health plan for a cost of \$688.00 per month starting January 1, 2017.

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 before the fifteenth day of the month is effective the first day of the following month.

Since you applied and submitted an enrollment in for your spouse in a platinum level qualified health plan on December 5, 2016, it properly began January 1, 2017.

Therefore, NYSOH's December 6, 2016, enrollment confirmation notice is **AFFIRMED** because it properly began your spouse's enrollment in [REDACTED] qualified health plan on January 1, 2017.

The third issue is whether NYSOH properly terminated your spouse's qualified health plan for non-payment of premium effective, February 28, 2017.

You testified and the record supports that you contacted NYSOH on February 3, 2017 to dispute your spouse's enrollment for the month of January, 2017 as [REDACTED] was "not able to use the coverage in January, 2017."

On April 7, 2017, NYSOH issued a disenrollment notice stating your spouse's platinum level qualified health plan ended effective February 28, 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 your spouse was properly terminated from [REDACTED] health plan for non-payment of premiums. Therefore, your appeal of the April 7, 2017 cancellation notice is **DISMISSED** as a non-appealable issue.

Decision

The November 5, 2016, disenrollment notice 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).

The December 6, 2016, enrollment notice is AFFIRMED.

Your appeal of the April 7, 2017 cancellation notice is DISMISSED as a non-appealable issue.

Effective Date of this Decision: July 3, 2017

How this Decision Affects Your Eligibility

Your spouse was disenrolled from [REDACTED] gold level qualified health plan for the month of December, 2016.

Your spouse's enrollment in a platinum level qualified health plan was 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

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 November 5, 2016, disenrollment notice is AFFIRMED.

Your spouse was disenrolled from her gold level qualified health plan for the month of December, 2016.

The December 6, 2016, enrollment notice is AFFIRMED.

Your spouse's enrollment in a platinum level qualified health plan was effective January 1, 2017.

Your appeal of the April 7, 2017 cancellation notice is DISMISSED as a non-appealable issue.

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 नि:शुल्क 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 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 ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&btumi 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 דאלמענטשער 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).

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).