



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

Notice of Decision

Decision Date: May 9, 2017

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000015571

[REDACTED]

Dear [REDACTED]

On May 4, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 27, 2017 disenrollment notice and January 27, 2017 enrollment 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 Date: May 9, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015571

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Issues

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

Did NY State of Health properly determine that you, your spouse's, and your oldest child's enrollment in a platinum level qualified health plan ended effective February 28, 2017?

Did NY State of Health properly determine that you, your spouse's, and your oldest child's enrollment in a gold level qualified health plan began as of March 1, 2017?

Procedural History

On November 26, 2016, NYSOH issued a notice of eligibility redetermination stating that you, your spouse, and your oldest child were eligible to receive up to \$1,032.00 per month in advance payments of the premium tax credits (APTC). This eligibility was effective January 1, 2017.

On November 29, 2016, NYSOH issued a notice of enrollment based on your plan selection on November 27, 2016, confirming your, your spouse's, and your oldest child's enrollment in a platinum level qualified health plan with a plan enrollment start date of January 1, 2017.

On January 27, 2017, NYSOH issued a disenrollment notice indicating that your, your spouse's, and your oldest child's coverage in the platinum level qualified health plan would end effective February 28, 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).

Also on January 27, 2017, NYSOH issued a notice of enrollment confirming your, your spouse's, and your oldest child's enrollment in a gold level qualified health plan, based on a plan selection on January 26, 2017, with a plan enrollment start date of March 1, 2017.

On February 6, 2017, you contacted the NYSOH Account Review Unit and appealed the date you, your spouse, and your oldest child were disenrolled from the platinum level qualified health plan, as well as the date you, your spouse, and your oldest child were enrolled in the gold level qualified health plan, insofar as your, your spouse's, and your oldest child's enrollment in the gold level qualified health plan did not begin on January 1, 2017.

On May 4, 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 testified that you are seeking for your, your spouse's, and your oldest child's enrollment in the gold level qualified health plan to begin as of January 1, 2017, rather than the platinum level qualified health plan.
- 2) Your NYSOH account reflects that on November 29, 2016 a platinum level qualified health plan was selected for yourself, your spouse, and your oldest child.
- 3) You testified that you selected the platinum level qualified health plan yourself on-line.
- 4) You testified that you investigated the plan on-line and both the NYSOH website and your family's medical providers' websites indicated that they accepted the platinum level qualified health plan you selected.
- 5) You testified that on January 26, 2017, your spouse went to her doctor, and was advised that they did not accept the platinum level qualified health plan.
- 6) You testified, and your NYSOH account reflects, that on January 26, 2017 you contacted NYSOH and requested to change your, your spouse's, and your oldest child's qualified health plan from the platinum level plan to the gold level plan.

- 7) Your, your spouse's, and your oldest child's enrollment in the gold level qualified health plan became effective March 1, 2017.
- 8) You testified that you have continued to pay your qualified health plan premiums.
- 9) You testified that you have at least one outstanding medical bill from January 2017, and potentially more, that are not covered under the platinum level qualified health plan.

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)).

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)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your, your spouse's, and your oldest child's enrollment in the platinum level qualified health plan ended effective February 28, 2017.

On November 26, 2016, NYSOH issued an eligibility determination notice stating that you, your spouse, and your oldest child were eligible to receive up to \$1,032.00 per month in APTC effective January 1, 2017. You subsequently enrolled yourself, your spouse, and your oldest child into a platinum level qualified health plan.

On January 27, 2017, NYSOH issue a disenrollment notice indicating you, your spouse, and your oldest child would be disenrolled from your platinum level qualified health plan effective February 28, 2017.

You testified that you are seeking retroactive disenrollment from your, your spouse's, and your oldest child's platinum qualified health plan effective January 1, 2017.

NYSOH must permit an enrollee to be retroactively disenrolled 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.

There is no indication in the record that your, your spouse's, or your oldest child's enrollment in a platinum qualified health plan as confirmed in the November 29, 2016 enrollment notice 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. Furthermore, there is no indication that your, your spouse's, and your oldest child's enrollment in a qualified health plan as confirmed in the November 29, 2016 enrollment notice was without your knowledge or consent, as you accessed your NYSOH account on-line yourself on November 27, 2016 and selected a plan for enrollment for yourself, your spouse, and your oldest child.

Therefore, there is no basis to find that NYSOH must permit you to retroactively terminate or cancel your, your spouse's, and your oldest child's enrollment in your platinum level qualified health plan.

The record reflects that on January 26, 2017 you contacted NYSOH and requested that you, your spouse, and your oldest child be disenrolled from the platinum level qualified health plan as you wished to enroll yourself, your spouse, and your oldest child in a gold level qualified health plan.

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.

NYSOH terminated your, your spouse's, and your oldest child's insurance coverage with your platinum level qualified health plan effective February 28, 2017, which is the last day of the month following your request.

Since you, your spouse, and your oldest child do not qualify to be retroactively disenrolled from your coverage and you did not provide reasonable notice to NYSOH, NYSOH properly determined that your, your spouse's, and your oldest

child's disenrollment from your platinum level qualified health plan was effective February 28, 2017.

Therefore, the January 27, 2017, disenrollment notice is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your, your spouse's, and your oldest child's enrollment in the gold level qualified health plan was effective March 1, 2017.

The record shows that on January 26, 2017 you submitted a request to enroll yourself, your spouse, and your oldest child in a gold level qualified health plan. On January 27, 2017, NYSOH issued an enrollment confirmation notice stating that your, your spouse's, and your oldest child's enrollment in the gold level qualified health plan was effective March 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 after the fifteenth day of a month goes into effect on the first day of the second following month.

As you selected the gold level qualified health plan for your, your spouse's, and your oldest child's enrollment on January 26, 2017, your, your spouse's, and your oldest child's enrollment properly began on the first day of the second month following January 2017; that is, on March 1, 2017.

Therefore, NYSOH's January 27, 2017 enrollment notice is correct and is AFFIRMED.

Decision

The January 27, 2017 disenrollment notice is AFFIRMED.

The January 27, 2017 enrollment notice is AFFIRMED.

Effective Date of this Decision: May 9, 2017

How this Decision Affects Your Eligibility

This decision does not change your, your spouse's, or your oldest child's disenrollment date. Your, your spouse's, and your oldest child's enrollment in the platinum level qualified health plan ended as of February 28, 2017.

Your, your spouse's, and your oldest child's enrollment in the gold level qualified health plan properly began as of March 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).

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

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P.O. Box 11729
Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The January 27, 2017 disenrollment notice is AFFIRMED.

This decision does not change your, your spouse's, or your oldest child's disenrollment date. Your, your spouse's, and your oldest child's enrollment in the platinum level qualified health plan ended as of February 28, 2017.

The January 27, 2017 enrollment notice is AFFIRMED.

Your, your spouse's, and your oldest child's enrollment in the gold level qualified health plan properly began as of March 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).