



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

Notice of Decision

Decision Date: May 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015821

[REDACTED]

Dear [REDACTED],

On May 16, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 29, 2016 disenrollment notice and the January 14, 2017 enrollment confirmation 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: May 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015821

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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 your enrollment in your Oscar silver level qualified health plan ended effective January 1, 2017?

Did NY State of Health properly determine that your enrollment in your Healthfirst bronze level qualified health plan was effective February 1, 2017?

Procedural History

On October 17, 2016 NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that you were still qualified to buy a health plan at full cost through NYSOH, effective January 1, 2017. The notice further advised you that you were being re-enrolled in your Oscar silver level qualified health plan with a plan start date of January 1, 2017. The notice also stated that if you wanted to make any changes, these would need to be made between November 16, 2016 and December 15, 2016, for your new plan to be effective January 1, 2017.

On November 18, 2016, NYSOH issued an enrollment notice confirming your re-enrollment in your Oscar silver level qualified health plan with a plan enrollment start date of January 1, 2017.

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On November 29, 2016, NYSOH issued a notice of disenrollment stating that your coverage in your Oscar silver level qualified health would end, based on your request on November 28, 2016, effective January 1, 2017.

On January 14, 2017, NYSOH issued a notice of enrollment, based on your plan selection on January 13, 2017, confirming your enrollment in your Healthfirst bronze level qualified health plan with a plan enrollment start date of February 1, 2017.

On February 14, 2017, you spoke to NYSOH's Account Review Unit and appealed the disenrollment from your Oscar silver level plan insofar as your plan ended on January 1, 2017 and not January 31, 2017.

On May 16, 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) Your NYSOH account indicates that you receive notices from NYSOH by regular mail. You testified that you have never changed the preference of how you receive notices from NYSOH from paperless to non-paperless or vice versa.
- 2) You testified that you could not recall if you received the October 17, 2016 renewal notice advising you that you were being reenrolled into your Oscar silver level qualified health plan with a plan start date of January 1, 2017.
- 3) You further testified that you could not recall if you received the November 29, 2016 disenrollment notice advising you that your coverage in your Oscar silver level qualified health plan would end as of January 1, 2017.
- 4) You testified that you were aware that you had been auto-enrolled into the Oscar silver level qualified health plan, which is why you contacted NYSOH to cancel the plan.
- 5) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 6) You testified that you could not recall when you contacted NYSOH to disenroll from your Oscar silver level qualified health plan, however, you

believe that you contacted NYSOH via telephone in order to request the disenrollment.

- 7) Your NYSOH account indicates that on November 28, 2016 an NYSOH representative processed your plan disenrollment.
- 8) You testified that you were enrolled in an Oscar silver level qualified health plan throughout 2016.
- 9) You testified that you became aware that you did not have coverage for January 2017 at some point in mid-January 2017, as you thought your Oscar silver level qualified health plan would continue until January 31, 2017.
- 10) You testified that you were never told that you would not have coverage for January 2017.
- 11) You testified that you selected the Healthfirst bronze level qualified health plan yourself on-line.
- 12) Your NYSOH account reflects that on January 13, 2017 user [REDACTED] selected a plan for enrollment.
- 13) During the hearing, you gave your permission for the Hearing Officer to listen to recordings of phone calls between yourself and NYSOH.
- 14) The record reflects that on November 28, 2016 you placed a phone call to NYSOH. A review of the recording of that phone call reveals that you advised the NYSOH representative that "I wanted to cancel my current health insurance. The one that I was on. I got the letter that was like, you're confirmed with your enrollment for 2017. But I never signed up for it. I'm sure it did it automatically, I would assume. But I was going to change it anyways." The NYSOH representative inquired if you were canceling your entire account or seeking to switch plans. You responded "I'm gonna cancel the Oscar plan. You know, I don't want to go ahead with it for 2017. Like, I'll have it through the end of this year, and I'll pay for it through the end of the year, but not for 2017." The NYSOH representative confirmed "You say that you do not want Oscar for 2017?", to which you responded "[REDACTED]". The NYSOH representative inquired as to why you were seeking to change plans, and you responded that this was due to the cost of the Oscar plan. The NYSOH representative then advised you that "I did just disenroll you with Oscar for January 1, but you would have to select a new plan by December 15. By December 15 you have to select a new plan for the upcoming year". You did not select a new plan at that time.

15) The record reflects that you next contacted NYSOH on November 28, 2016. A review of the recording of that phone call reveals that you discussed plan options with the NYSOH representative, however, you did not select a plan for enrollment at that time.

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)).

Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond

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to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

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)).

Annual Re-enrollment into a Qualified Health Plan

If an enrollee remains eligible for enrollment in a qualified health plan as part of the annual eligibility redetermination and the plan in which they are enrolled remains available through NYSOH for renewal, such enrollee will have his or her enrollment through the qualified health plan renewed, unless an enrollee voluntarily terminates coverage (45 CFR § 155.335(j)(1)).

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your enrollment in your qualified health plan ended effective January 1, 2017.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual's projected eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On October 17, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost effective January 1, 2017. The notice further advised you that you were being re-enrolled in your Oscar silver level qualified health plan with a plan start date of January 1, 2017.

On November 18, 2016, NYSOH issued an enrollment notice stating that you were enrolled in the Oscar silver level plan with a plan enrollment start date as of January 1, 2017.

The record reflects that on November 28, 2016 you contacted NYSOH and requested that you be disenrolled from your qualified health plan as you no longer wanted to remain enrolled.

On November 29, 2016, NYSOH issued a disenrollment notice indicating you would be disenrolled from your Oscar silver level qualified health plan effective January 1, 2017.

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 insurance coverage with your Oscar silver level qualified health plan effective January 1, 2017.

Since you requested to be disenrolled from your Oscar silver level qualified health plan on November 28, 2016 and clearly indicated that you did not want to be enrolled in the Oscar silver level qualified health plan for 2017, NYSOH properly determined that your disenrollment in your Oscar silver level qualified health plan was effective January 1, 2017.

Therefore, the November 28, 2016, disenrollment notice is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your enrollment in your Healthfirst bronze level qualified health plan was effective February 1, 2017.

The record demonstrates that on January 13, 2017 you submitted a request to enroll in a Healthfirst bronze level qualified health plan.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month. Additionally, 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 an including the fifteenth day of a month goes into effect on the first day of the following month.

As you selected the Healthfirst bronze level qualified health plan on January 13, 2017, your enrollment properly began on the first day of the month following January 2017; that is, on February 1, 2017.

Therefore, NYSOH's January 14, 2017 enrollment confirmation notice is AFFIRMED because it properly began your enrollment in your Healthfirst bronze level qualified health plan on February 1, 2017.

Decision

The November 29, 2016 disenrollment notice is AFFIRMED.

The January 14, 2017 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: May 22, 2017

How this Decision Affects Your Eligibility

This decision does not change your disenrollment date.

Your enrollment in your Oscar silver level qualified health plan ended as of January 1, 2017.

Your enrollment in your Healthfirst bronze level qualified health plan properly began as of February 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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- By fax: 1-855-900-5557

Summary

The November 29, 2016 disenrollment notice is AFFIRMED.

This decision does not change your disenrollment date.

Your enrollment in your Oscar silver level qualified health plan ended as of January 1, 2017.

The January 14, 2017 enrollment confirmation notice is AFFIRMED.

Your enrollment in your Healthfirst bronze level qualified health plan properly began as of February 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)

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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.

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