



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

## Notice of Decision

Decision Date: June 26, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015884

[REDACTED]

Dear [REDACTED],

On May 23, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 25, 2016 disenrollment and eligibility determination notices.

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: June 26, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015884



## Issues

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

Was your appeal of NY State of Health's (NYSOH) August 25, 2016 disenrollment notice timely?

Did NYSOH properly determine that your enrollment in your bronze-level qualified health plan (QHP) was cancelled, effective August 31, 2016?

Did NYSOH properly determine that you and your spouse's eligibility for and enrollment in the Essential Plan began effective October 1, 2016?

## Procedural History

On July 16, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$251.00 per month in advance payments of the premium tax credits (APTC) and, if you selected a silver-level qualified health plan, for cost-sharing reductions. This eligibility was effective August 1, 2016.

On July 29, 2016, NYSOH issued a plan enrollment notice confirming your enrollment in a bronze-level qualified health plan (QHP) with a monthly premium responsibility of \$47.09, after your APTC of \$251.00 was applied, both effective August 1, 2016.

On August 24, 2016, you contacted NYSOH and updated your application to include your spouse whom you recently married.

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On August 25, 2016, NYSOH issued an eligibility determination notice, based on your updated August 24, 2016 application, stating that you and your spouse were eligible to enroll in the Essential Plan, effective October 1, 2016.

Also on August 25, 2016, NYSOH issued a plan enrollment notice, based on your plan selection on August 24, 2016, stating that your spouse was enrolled in an Essential Plan and her plan enrollment start date was October 1, 2016. That notice further stated that your health coverage with the Essential Plan would not begin until you picked a plan.

Also on August 25, 2016, NYSOH issued a disenrollment notice stating that your coverage with your bronze-level QHP would end effective August 31, 2016.

On September 9, 2016, NYSOH issued an eligibility determination notice, based on a system updated application on September 8, 2016, stating that you were eligible to enroll in the Essential Plan, effective October 1, 2016. That notice further stated that your spouse was eligible to enroll in the Essential Plan for a limited time, effective October 1, 2016. You were directed to provide proof of your spouse's Social Security number by November 22, 2016 and proof of her immigration status by December 7, 2016.

On September 28, 2016, you selected an Essential Plan for you and your spouse.

Also on September 28, 2016, you spoke to NYSOH's account review unit and filed a complaint that you had been disenrolled from your bronze-level QHP effective August 31, 2016 and that your Essential Plan coverage did not begin until October 1, 2016 (see Incident # [REDACTED]).

On September 29, 2016, NYSOH issued a plan enrollment notice, based on your plan selection on September 28, 2016, stating that you and your spouse were enrolled in Essential Plan 1 with a \$20.00 monthly premium each and a plan enrollment start date of October 1, 2016.

On February 15, 2017, NYSOH contacted you and advised that your request to backdate your Essential Plan coverage to September 1, 2016 had been denied.

Also on February 15, 2017, you spoke to NYSOH's Account Review Unit and appealed the 2016 eligibility determination and cancellation notices, insofar as your enrollment in your bronze-level QHP was cancelled as of August 31, 2016, and your Essential Plan coverage did not begin until October 1, 2016, leaving a gap in health insurance coverage for the month of September 2016.

On May 23, 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.

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## Findings of Fact

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

- 1) You testified that you are seeking insurance coverage for yourself for the month of September 2016.
- 2) According to your NYSOH account and your testimony, you were enrolled in a bronze-level QHP effective August 1, 2016.
- 3) You testified that you got married and updated your NYSOH account on August 24, 2016 by phone with a NYSOH CSR. You testified that you were told by the CSR that there would not be a gap in your health coverage in your transition from your bronze-level GHP to the Essential Plan.
- 4) You testified that the CSR told you that your health plan would start on September 1, 2016 and that you relied on that information in scheduling a doctor's appointment.
- 5) According to your NYSOH account, on August 24, 2016, the CSR did not enroll you in an Essential Plan but did enroll your spouse. Further, the CSR terminated your bronze-level QHP effective August 31, 2016.
- 6) According to your NYSOH account your Essential Plan coverage was effective October 1, 2016.
- 7) You testified that you went to the doctor's in September 2016 and were told by the doctor's office that you did not have health insurance coverage.
- 8) According to your NYSOH account and your testimony, you contacted NYSOH on September 28, 2016 and enrolled in an Essential Plan.
- 9) You testified that you want health insurance coverage for the month of September 2016 because you have doctor's bills of approximately \$400.00 which were not covered by insurance and that you had to pay yourself.
- 10) According to your NYSOH account, you initially filed a complaint about not having insurance coverage in September 2016 on September 28, 2016 (see Incident # [REDACTED]). It was not until February 15, 2017 that NYSOH informed you that your complaint had been denied, which resulted in you requesting an appeal at that time (see Incident # [REDACTED] and # [REDACTED]).

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

## **Applicable Law and Regulations**

### Valid Appeal Requests

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)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR §155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

### 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)).

Reasonable notice is defined as at least fourteen days before the requested effective date of termination (45 CFR § 155.430(d)(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)).

### Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates

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for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential 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); see also 42 CFR § 600.320). 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 your appeal of NYSOH's August 25, 2016 disenrollment notice was timely.

The record reflects that you first contacted NYSOH to dispute the disenrollment date of your bronze-level QHP and/or the start date of your Essential Plan on September 28, 2016. The record further reflects that a complaint was created at that time. The record indicates that you were not informed of a determination on this complaint by NYSOH until February 15, 2017 at which time you filed a formal appeal with NYSOH in regards to the end date of your bronze-level QHP and the start date of your Essential Plan.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

The record demonstrates that you contacted NYSOH and filed a complaint regarding your disenrollment date within 60 days of the August 25, 2016 disenrollment notice. In this case, NYSOH did not inform you of its decision on your complaint until February 15, 2017 and you immediately filed formal appeal. Therefore, your appeal was timely filed.

The second issue under review is whether NYSOH properly determined that your enrollment in your bronze-level QHP was cancelled, effective August 31, 2016.

According to your NYSOH account and your testimony, on August 24, 2016, you called NYSOH and with the assistance of a CSR, added your new spouse on the account. At that time, you and your spouse were redetermined eligible for the Essential Plan, effective October 1, 2016. According to your NYSOH account and your testimony, you selected an Essential Plan for both you and your spouse at that time. The record reflects that the CSR processed a plan selection for your

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spouse only. The record further reflects that the CSR deleted your enrollment in your bronze-level QHP, effective August 31, 2016, but did not process your enrollment in an Essential Plan. You also testified that the CSR advised you that you would have coverage in September 2016 and, based on that information, you scheduled a doctor's appointment.

You contacted NYSOH on August 24, 2016, and requested that your health insurance coverage in your QHP be terminated only after you had been transitioned over to your Essential Plan with your spouse. Since reasonable notice to terminate coverage requires 14 days, the earliest date you could have been disenrolled from your QHP was 14 days after August 24, 2016, or September 7, 2016. There is nothing in the record to indicate that you and your QHP agreed to this date. Accordingly, the earliest your QHP coverage could be terminated was the last day of September 2016. As such, your enrollment in your bronze-level QHP should not have ended until September 30, 2016.

Therefore, the August 25, 2016 disenrollment notice is MODIFIED to state that your enrollment in your bronze-level QHP is terminated effective September 30, 2016.

Your case is RETURNED to NYSOH to facilitate reinstatement in your bronze-level QHP for the month of September 2016, and to notify you accordingly.

The third issue under review is whether NYSOH properly determined that you and your spouse's eligibility for enrollment in the Essential Plan began on October 1, 2016.

As stated above, you testified and the record reflects that you updated your account and added your new spouse on August 24, 2016. As a result, you and your spouse were found eligible for the Essential Plan effective October 1, 2016. The record reflects that you also selected plans on August 24, 2016, and the CSR processed your spouse for enrollment but did not process your enrollment.

The date on which enrollment in an Essential 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 the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

According to your NYSOH account and your testimony, on August 24, 2016, you selected an Essential Plan for you and your spouse, so your enrollment properly took effect on the first day of the second month following August 2016; that is, on October 1, 2016.



NYSOH's August 25, 2016 and September 9, 2016 eligibility redeterminations and the September 29, 2016 enrollment confirmation notices are AFFIRMED because they properly began your and your spouse's eligibility for and enrollment in your Essential Plan on October 1, 2016.

## **Decision**

The August 25, 2016 disenrollment notice is MODIFIED to state that your enrollment in your bronze-level QHP is terminated effective September 30, 2016.

The August 25, 2016 and September 9, 2016 eligibility redetermination notices are AFFIRMED.

The September 29, 2016 enrollment confirmation notice is AFFIRMED.

Your case is RETURNED to NYSOH to facilitate your reinstatement in your bronze-level QHP for the month of September 2016, and to notify you accordingly.

This Decision does not affect any subsequent eligibility redeterminations issued by NYSOH.

**Effective Date of this Decision:** June 26, 2017

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

This decision does not change your or your spouse's current eligibility.

Your enrollment in your bronze-level QHP should not have been terminated until September 30, 2016.

Your and your spouse's eligibility for and enrollment in your Essential Plan coverage properly began October 1, 2016.

Your case is being sent back to NYSOH to reinstate you in your bronze-level QHP for the month of September 2016. NYSOH will notify you once this has been completed.

You are responsible to pay to the health plan directly the premium for the month of September 2016 in order for your coverage to resume.

## **If You Disagree with this Decision (Appeal Rights)**

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 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  
Albany, NY 12211

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: 1-855-900-5557

## **Summary**

The August 25, 2016 disenrollment notice is MODIFIED to state that your The August 25, 2016 disenrollment notice is MODIFIED to state that your enrollment in your bronze-level QHP is terminated effective September 30, 2016.

The August 25, 2016 and September 9, 2016 eligibility redetermination notices are AFFIRMED.

The September 29, 2016 enrollment confirmation notice is AFFIRMED.

Your case is RETURNED to NYSOH to facilitate your reinstatement in your bronze-level QHP for the month of September 2016, and to notify you accordingly.

This Decision does not affect any subsequent eligibility redeterminations issued by NYSOH.

This decision does not change your or your spouse's current eligibility.

Your enrollment in your bronze-level QHP should not have been terminated until September 30, 2016.

Your and your spouse's eligibility for and enrollment in your Essential Plan coverage properly began October 1, 2016.

Your case is begin sent back to NYSOH to reinstate you in your bronze-level QHP for the month of September 2016. NYSOH will notify you once this has been completed.

You are responsible to pay to the health plan directly the premium for the month of September 2016 in order for your coverage to resume.

## **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।

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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&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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