



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

## Notice of Decision

Decision Date: June 30, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000016683

[REDACTED]

Dear [REDACTED],

On June 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's refusal to allow you to retroactively disenroll from your MVP bronze-level qualified health plan for the months of November and December 2016.

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.

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DEPARTMENT OF HEALTH  
P.O. Box 11729  
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## Decision

Decision Date: June 30, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000016683

[REDACTED]

## 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 you were enrolled in an MVP bronze-level qualified health plan (QHP) for the months of November and December 2016?

## Procedural History

On July 27, 2016, you filed an application for financial assistance with health insurance through NYSOH.

On July 28, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in a QHP at full cost, effective September 1, 2016, but that you were not eligible to enroll in a QHP outside of the 2016 open enrollment period.

On August 16, 2016, you filed an updated application for financial assistance.

On August 17, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in a QHP at full cost, effective October 1, 2016, but that you were not eligible to enroll in a QHP outside of the 2016 open enrollment period.

On September 1, 2016, you updated your application for financial assistance and indicated in your application that you would be losing health coverage on October 24, 2016.

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On September 2, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a QHP at full cost through NYSOH, effective October 1, 2016, and that you qualified to select a QHP outside of the 2016 open enrollment period. The notice stated that you had until December 23, 2016 to select a plan.

On September 27 2016, you updated your NYSOH account, and NYSOH prepared a preliminary eligibility determination stating that you were eligible to receive up to \$275.00 per month in advance payments of the premium tax credit (APTC), and eligible to receive cost-sharing reductions if you enrolled in a silver-level QHP, effective November 1, 2016.

On September 28, 2016, you updated your NYSOH Account.

Also on September 28, 2016, NYSOH issued two notices: one notice confirmed your enrollment in a WellCare silver-level QHP beginning November 1, 2016, and the second notice cancelled that same enrollment, effective November 1, 2016.

On October 5, 2016, you updated your NYSOH account.

On October 6, 2016, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in a WellCare silver-level QHP, beginning November 1, 2016.

On October 7, 2016, NYSOH issued a notice of eligibility determination, based on your September 27, 2016 application update, stating that you were eligible to receive up to \$275.00 per month in APTC, and eligible for cost-sharing reductions, effective November 1, 2016.

Also on October 7, 2016, NYSOH issued a notice of eligibility determination, based on your September 28, 2016 application, stating that you were newly eligible to purchase a QHP at full cost, effective November 1, 2016.

On October 9, 2016, NYSOH issued a notice of eligibility determination, based on your October 5, 2016 application, stating that you were eligible to receive up to \$275.00 per month in APTC, and eligible for cost-sharing reductions, effective November 1, 2016.

On November 2, 2016, you updated your NYSOH application several times, and both enrolled in, and cancelled enrollment in, multiple QHPs.

On November 3, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$258.00 per month in APTC, effective December 1, 2016.

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Also on November 3, 2016, NYSOH issued a disenrollment notice stating that your coverage in your WellCare silver level QHP was ending as of November 30, 2016, because you requested for your coverage to end on November 2, 2016.

Also on November 3, 2016, NYSOH issued several other enrollment/disenrollment/cancellation notices, based on the multiple changes you made to your account on November 2, 2016.

On November 7, 2016, you again made updates to your NYSOH account, and selected a QHP for enrollment.

On November 8, 2016, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an MVP bronze-level QHP, beginning December 1, 2016, with a monthly premium of \$179.56, after the application of your \$258.00 in APTC.

On November 13, 2016, NYSOH issued a renewal notice stating that it was time to renew your NYSOH coverage for 2017. The notice stated that you were eligible to receive up to \$351.26 in APTC, effective January 1, 2017, based on the information provided in your November 2, 2016 application. The notice also stated that you were re-enrolled in your bronze-level MVP QHP, beginning January 1, 2017.

On November 19, 2016, NYSOH issued an enrollment confirmation notice, confirming your enrollment in a bronze-level MVP QHP, with a monthly premium of 223.64 (after the application of \$258.00 in APTC), beginning January 1, 2017.

On December 14, 2016, NYSOH issued an enrollment confirmation notice, confirming your enrollment in a bronze-level MVP QHP, but with a monthly premium of \$128.38, after the application of your new 2017 APTC amount of \$351.26.

On March 8, 2017, you updated your NYSOH application and indicated that you did not need health insurance coverage.

That same day, you spoke to NYSOH's Account Review Unit and appealed the fact that you were not disenrolled from your QHP for the months of November and December 2016.

On June 20, 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 when you applied, you were going to be losing health coverage through your parents' insurance as of the end of October 2016.
- 2) You testified that you set up your NYSOH account in July 2016 so that everything would be ready when it was time for you to enroll in coverage.
- 3) Your NYSOH account reflects that an application was filed on your behalf on September 1, 2016, in which you requested a special enrollment period.
- 4) NYSOH issued a notice of eligibility determination on September 2, 2016 which stated that you were eligible to purchase a QHP at full cost, effective October 1, 2016, and that you were eligible to enroll in a QHP outside of the 2016 open enrollment period. The notice gave you until December 23, 2016 to select a plan for 2016 coverage.
- 5) You testified that you were never trying to enroll in coverage for 2016 at any point, and that you only ever wanted coverage to begin as of January 01, 2017.
- 6) Your NYSOH account reflects that, during the months of October and November 2016, you added and deleted enrollments in several health plans.
- 7) You testified that you understood that open enrollment for 2017 began in November 2016, but that you made updates to your account in the months leading up to November because you were just trying to get everything ready to enroll in coverage.
- 8) Your NYSOH account reflects, and your testimony confirmed, that all of the application updates prior to December 13, 2016 were made by you, and not with the assistance of anyone from NYSOH.
- 9) Your NYSOH account reflects that you were enrolled into an MVP bronze-level QHP, which you selected on November 7, 2016. An enrollment confirmation notice, confirming this plan selection, was issued on November 8, 2016, indicating that your enrollment in the plan would begin on December 1, 2016.
- 10) You testified that you first spoke with NYSOH around December 14, 2016. You testified that you informed the NYSOH representative you spoke with

that day that you informed NYSOH that you did not want any coverage in 2016, only 2017.

- 11) You testified, and your NYSOH account confirms, that you were enrolled into an MVP bronze-level QHP as of January 01, 2017.
- 12) You testified that you tried to make a premium payment for January 2017, but that MVP applied it to the month of November 2016. You testified that you did not make any premium payments after that.
- 13) You testified that MVP is still billing you for past due premiums, and that you last received a bill in March 2017.
- 14) Your NYSOH account reflects that, on March 8, 2017, you updated your account to indicate that you no longer wanted coverage through NYSOH, and your enrollment in your MVP bronze level QHP was terminated as of March 31, 2017.
- 15) You testified that you are now living in a different state, so you are just trying to get retroactively disenrolled from coverage so that you will not receive any more bills from MVP.

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 QHP, with appropriate notice to the NYSOH or QHP (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 QHP issuer and the enrollee agree to such a date

(45 CFR § 155.430(d)(2)(i)-(iii)).

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NYSOH must permit an enrollee to retroactively terminate or cancel their enrollment in a QHP 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 QHP 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 QHP 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 QHP 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 issue under review is whether NYSOH properly determined that you were enrolled in an MVP bronze-level QHP for the months of November and December 2016.

On October 9, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$275.00 per month in APTC, and eligible for cost-sharing reductions, effective November 1, 2016. This was based on the information in your October 5, 2016 application.

According to notices issued in your NYSOH account, you had previously been found eligible for a special enrollment period that did not expire until December 23, 2016, based on the information in your application that stated that your coverage through your parents' insurance would end as of October 24, 2016.

Also, according to information in your NYSOH account, you enrolled into a WellCare silver-level plan on October 5, 2016, with a November 1, 2016 enrollment start date, and did not cancel that enrollment until November 2, 2016,

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with a November 30, 2016 enrollment end date. However, you did not indicate that you are being billed by WellCare for this coverage, so this enrollment is not addressed in this decision.

According to information in your NYSOH account, the first enrollment confirmation notice issued for your MVP bronze-level plan was issued on November 8, 2016, with a plan start date of December 1, 2016.

Therefore, since there is no notice confirming an enrollment in an MVP plan prior to December 1, 2016, you were NOT enrolled in coverage through MVP for the month of November 2016, and should not be billed for coverage in that month by MVP.

By your own testimony, you first contacted NYSOH on December 14, 2016 to try to ensure that you were disenrolled from any and all coverage you had enrolled in for the year 2016.

NYSOH must permit an enrollee to be retroactively disenroll from their QHP 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 enrollment in an MVP bronze-level QHP, as confirmed in the November 8, 2016 enrollment notice was unintentional, inadvertent, or erroneous, and 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 enrollment in a QHP as confirmed in the November 8, 2016 enrollment notice was without your knowledge or consent. Indeed, you confirmed in your testimony that, prior to December 14, 2016, all updates to your account were made by you, and were not made with any assistance from NYSOH.

Therefore, there is no basis to find that NYSOH must permit you to retroactively terminate or cancel your enrollment in your MVP QHP for the month of December 2016, since there was no error or misconduct on the part of NYSOH that caused your December 2016 enrollment.

Moreover, though you testified that you contacted NYSOH on December 14, 2016 to disenroll from your plan, there is no disenrollment or cancellation notice from that time. However, even if a disenrollment had been processed on December 14, 2016, it would not have gone into effect until December 31, 2016.

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Enrollees must be allowed to terminate their coverage with a QHP 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.

Your enrollment in your MVP bronze-level QHP ended as of December 31, 2016, because that was the end of the 2016 coverage year. Your enrollment as of January 01, 2017, is not at issue in this case, as you acknowledge that you wanted to enroll in coverage for 2017, and did so willingly.

Since you do not qualify to be retroactively disenrolled from your coverage and you did not provide reasonable notice to NYSOH for a termination date prior to December 31, 2016, NYSOH properly denied your request to retroactively disenroll from your December 2016 MVP bronze-level QHP.

## **Decision**

The November 8, 2016 enrollment confirmation notice, confirming your enrollment in an MVP bronze-level QHP as of December 1, 2016, is **AFFIRMED**.

Your 2016 enrollment in your bronze-level MVP QHP ended as of December 31, 2016 .

You were not enrolled in an MVP QHP during the month of November 2016, as there is no enrollment confirmation notice for that time.

**Effective Date of this Decision:** June 30, 2017

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

This decision does not change your disenrollment date. Your enrollment in your MVP bronze-level QHP began on December 1, 2016, and ended as of December 31, 2016.

However, this decision does confirm that you did **NOT** have coverage in a QHP through MVP in the month of November 2016, and should not be responsible for any premium payments to MVP for that month.

## **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

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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The November 8, 2016 enrollment confirmation notice, confirming your enrollment in an MVP bronze-level QHP as of December 1, 2016, is AFFIRMED.

Your 2016 enrollment in your bronze-level MVP QHP ended as of December 31, 2016.

You were not enrolled in an MVP QHP during the month of November 2016, as there is no enrollment confirmation notice for that time period.

This decision does not change your disenrollment date. Your enrollment in your MVP bronze-level QHP began on December 1, 2016, and ended as of December 31, 2016.

However, this decision does confirm that you did NOT have coverage in a QHP through MVP in the month of November 2016, and should not be responsible for any premium payments to MVP for that month.

## **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)

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### 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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