



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

## Notice of Decision

Decision Date: July 14, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000016871

[REDACTED]

Dear [REDACTED]

On June 21, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 14, 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).

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## Decision

Decision Date: July 14, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000016871

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## 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 your enrollment in a bronze-level Qualified Health Plan (QHP) ended effective March 31, 2017?

## Procedural History

On December 16, 2016, NYSOH issued a plan enrollment notice, based on your December 15, 2016 plan selection, confirming your enrollment in a bronze-level QHP at a cost of \$320.77 per month, effective January 1, 2017.

On March 14, 2017, NYSOH issued a disenrollment notice indicating that coverage in your bronze-level QHP would end effective March 31, 2017, because on March 13, 2017, you asked NYSOH to end your coverage.

On March 16, 2017, you contacted NYSOH's Account Review Unit and requested an appeal of your enrollment as it related to the disenrollment date of your bronze-level QHP, requesting that disenrollment date be made effective January 31, 2017.

On June 21, 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 that day.

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## Findings of Fact

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

- 1) You testified that the plan you purchased through NYSOH is too expensive and that you should not have to pay for a plan that you do not need.
- 2) You testified that you paid a premium to your QHP for the month of January 2017. You are seeking retroactive disenrollment from your bronze-level QHP, effective January 31, 2017 because you are being billed by the health plan for February 2017, March 2017 and April 2017 premiums.
- 3) You testified that you contacted NYSOH in January 2017 to disenroll from your qualified health plan.
- 4) According to telephone call records dated March 13, 2017, you called NYSOH three times in an attempt to retroactively disenroll from your health plan and the following events occurred:
  - (a) During the first phone call to NYSOH, you stated that you attempted to do an “ET request” to cancel your health plan in January 2017. In that same phone call, you contradict yourself and state that you should have been cancelled for non-payment and you should not be penalized for the health plan failing to cancel you. You stated that your “understanding was that [your health plan] was cancelled if it wasn’t paid for” and that was what they did last year.
  - (b) During this same conversation, you are told three times that you failed to call and cancel and that is why you were billed by the health plan. You did not deny this assertion.
  - (c) Also during that call, you stated you were in contact with the live chat service. When asked when that was, you replied that you spoke to someone in February 2017 and March 2017 and they told you to contact the call center.
  - (d) Also during that call, you were transferred from a customer service representative to a supervisor and were advised by both that you could not be backdated and that you should contact your health plan directly.
  - (e) During the second phone call to NYSOH, you stated that you did call to cancel with NYSOH in January 2017. You also alleged that during your first phone call to NYSOH, that the customer service representative stated that she would backdate the termination of coverage for you.
  - (f) During your third phone call to NYSOH, you stated you paid your January’s premium and called Marketplace on the 25 or 26<sup>th</sup> of January 2017 to cancel your coverage. You stated you spoke to live

chat and they told you to call, which is when you cancelled your coverage.

- 5) A review of your call records show that there were no phone calls made to NYSOH by you prior to March 13, 2017.

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 coverage, 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)).

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.

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- 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 disenrolled you from your bronze-level QHP, effective March 31, 2017.

On March 14, 2017, NYSOH issued a disenrollment notice indicating you would be disenrolled from your bronze-level QHP effective March 31, 2017, based on your March 13, 2017 request to end coverage.

You testified that you are seeking retroactive disenrollment from your bronze-level QHP effective January 31, 2017.

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 QHP without their knowledge or consent by a third party.

There is no indication in the record that your enrollment in a QHP, as confirmed in the December 16, 2016 plan enrollment notice, was unintentional, inadvertent, or erroneous, nor was your enrollment in a QHP 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 was without your knowledge or consent. In fact, you testified that you paid the premium for coverage in January 2017, which indicates you knew you were enrolled in a QHP for that month.

Therefore, there is no basis in the record to find that NYSOH must permit you to retroactively terminate or cancel your enrollment in a QHP to January 31, 2017,

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due to a technical error, or 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 that you were enrolled into a QHP without your knowledge or consent by a third party.

You testified that you called to disenroll in your health plan at the end of January 2017. However, your call records show that your testimony is not credible. In fact, you made several attempts to backdate your termination of coverage on March 13, 2017, in which you stated that you thought you would be disenrolled because you did not pay your premium and did not deny assertions made by NYSOH that you did not call to cancel your coverage previously.

Also, a further review of those phone calls demonstrates that you made several conflicting statements to different NYSOH representatives. These include statements in the second phone call in which you state that the prior customer service representative stated that she would backdate the termination of your coverage, when this was not said. Additionally, in the second phone call you state you spoke to live chat in February 2017 and March 2017, but you state in the third phone call that you spoke to the live chat in January 2017.

The credible evidence of the record reflects that you initially contacted NYSOH on March 13, 2016, and requested that you be disenrolled from your bronze-level QHP as you no longer wanted to remain enrolled.

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.

NYSOH terminated your insurance coverage with your QHP effective March 31, 2017, which is the last day of the month following the reasonable notice period.

Since you do not qualify to be retroactively disenrolled from your bronze-level coverage and you did not provide 14 days reasonable notice to NYSOH to have your QHP coverage terminate as of January 31, 2017, NYSOH properly determined that your disenrollment in your QHP was effective March 31, 2017.

Therefore, the March 14, 2017, disenrollment notice is AFFIRMED.

## **Decision**

The March 14, 2017 disenrollment notice is AFFIRMED.

**Effective Date of this Decision:** July 14, 2017

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

This decision does not change your disenrollment date. Your enrollment in your bronze-level QHP began January 1, 2017 and ended as of March 31, 2017.

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

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services 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 QHPs, s, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. 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 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:  
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## **Summary**

The March 14, 2017 disenrollment notice is AFFIRMED.

This decision does not change your disenrollment date. Your enrollment in your bronze-level QHP began January 1, 2017 and ended as of March 31, 2017.

## **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

**A Copy of this Decision Has Been Provided To:**

