



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: AP000000016970

[REDACTED]

Dear [REDACTED]

On June 22, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 17, 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: June 30, 2017

NY State of Health Account ID [REDACTED]  
Appeal Identification Number: AP000000016970



## 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 spouse's enrollment in a qualified health plan (QHP), with the application of advance payments of the premium tax credit (APTC), was effective no earlier than May 1, 2017?

## Procedural History

On October 20, 2016, NYSOH issued a renewal notice stating that it was time for you and your spouse to renew your application for health insurance for 2017.

On November 17, 2016, you updated your NYSOH account and applied for financial assistance with health insurance.

On November 18, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to receive up to \$755.00 per month in APTC, and eligible for cost-sharing reductions if you enrolled in a silver-level QHP, effective January 1, 2017.

Also on November 18, 2016, NYSOH issued a notice of enrollment confirmation confirming that you and your spouse were enrolled in a Fidelis Care couple's bronze-level QHP, with an enrollment start date of January 1, 2017. The monthly premium for this plan, after the application of your APTC, was \$276.15.

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On January 16, 2017, you updated your NYSOH account and indicated that you did not need health insurance.

On January 17, 2017, NYSOH issued a notice of eligibility determination stating that your spouse was eligible to receive up to \$198.00 per month in APTC, effective February 1, 2017.

That same day, NYSOH issued a notice of enrollment confirmation confirming your spouse's enrollment in a Fidelis Care individual's bronze-level QHP, beginning February 1, 2017. The new premium amount, after the application of her APTC, was \$139.31.

Also on January 17, 2017, NYSOH issued a notice of disenrollment stating that you and your spouse were disenrolled from your Fidelis couple's bronze-level QHP as of February 28, 2017.

On January 19, 2017, you made updates to your NYSOH account, and on January 20, 2017, NYSOH again issued a notice of enrollment confirmation, confirming your spouse's enrollment in a Fidelis Care individual's bronze-level QHP, beginning February 1, 2017. The notice again stated that your spouse's APTC would be applied to her monthly premium beginning February 1, 2017.

On February 17, 2017, NYSOH issued a notice of disenrollment stating that your spouse's enrollment in her QHP ended effective February 1, 2017 because she did not pay her premium by the payment deadline.

On March 13 and 16, 2017, you updated your NYSOH account and filed an application for health insurance on behalf of your spouse.

On March 14 and 17, 2017, NYSOH issued notices of eligibility determination stating that your spouse was eligible to receive up to \$198.00 per month in APTC, effective April 1, 2017 and May 1, 2017, respectively. The March 17, 2017 notice also stated that your spouse had until April 30, 2017 to select a QHP for enrollment.

On March 17, 2017, NYSOH issued a notice of enrollment confirmation, confirming your spouse's enrollment in a Fidelis Care individual's bronze-level QHP, beginning May 1, 2017. The notice stated that her monthly premium payment would be \$139.31, after the application of her APTC.

Also on March 17, 2017, you spoke to NYSOH's Account Review Unit and appealed the March 17, 2017 enrollment confirmation notice, insofar as your spouse's enrollment in her QHP did not begin on February 1, 2017.

On June 22, 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) You testified that you updated your application in January 2017 and indicated that you did not need health insurance because you were going to be turning [REDACTED] in [REDACTED] 2017, and would be eligible for Medicare.
- 2) You testified that you updated the application by logging into your NYSOH account on January 16, 2017, and that you selected the same plan for your spouse, but for an individual instead of two people. You testified that her premium amount was supposed to be \$139.31.
- 3) You testified that you were in Florida in January 2017 around the time when you knew you needed to submit the premium payment for your spouse's February 2017 coverage, and you did not have any updated paperwork with your spouse's new subscriber ID number.
- 4) You testified that you sent a check for your spouse's premium amount of \$139.31 on January 24, 2017, and that it cleared your account on January 31, 2017. However, you sent in the payment using the old subscriber ID number from your couple's plan, and you are not sure what account the payment was applied to.
- 5) You testified that you were having your mail forwarded to you while you were in Florida, so you received the January 17, 2017 enrollment confirmation paperwork, but that there was a delay in your receipt of it.
- 6) You testified that, after you updated the account and removed yourself from coverage on January 16, 2017, it was your understanding that, as of February 1, 2017, your spouse's coverage would continue with her new plan, and yours would end.
- 7) You testified that you received the notice stating that your spouse had been disenrolled for coverage for nonpayment toward the end of February 2017.
- 8) You testified that you contacted Fidelis, and they told you that you were still responsible for a payment for the couple's level QHP for the month of February 2017.

- 9) You testified that you logged into your Fidelis account and saw a balance due of \$136.84, so you made an extra payment of \$136.84 on February 27, 2017. You testified that this payment amount is still unaccounted for, as far as you know, and was not applied to any premium.
- 10) You testified that you talked to Fidelis to ask what, if anything, could be done, and they informed you that you should have paid the full couple's premium for February 2017, and that there was nothing further that they could do to reinstate your spouse in coverage.
- 11) You testified that, on March 31, 2017, you spoke to someone else at Fidelis who figured out that difference in subscriber ID numbers had caused the problem. This person directed you to submit a check of \$2.47 – the difference between the \$136.84 that you sent at the end of February, and your spouse's \$139.31 monthly premium – and that it could be applied for March 2017 coverage.
- 12) You testified that you sent this amount in with a payment that was made for May 2017's coverage.
- 13) You testified that the \$136.84 and the \$2.47 payments are still unaccounted for.
- 14) You testified that you contacted NYSOH on March 13, 2017 to reapply for coverage for your spouse. You testified that you tried to enroll her in a plan on that day, but the person who assisted you from NYSOH put in your temporary Florida address as your residential address, and this caused a problem that prevented you from completing your spouse's enrollment on that day.
- 15) You testified, and the record reflects, that you re-selected a Fidelis bronze plan for your spouse on March 16, 2017, and that her enrollment in the plan began on May 1, 2017.
- 16) You testified that you do not believe your spouse has any medical bills for the months of February, March, or April of 2017, but that you are concerned about incurring a tax penalty because of her lack of coverage for three months.

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

## **Applicable Law and Regulations**

### Redetermination During a Benefit Year

When a redetermination is issued because of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15<sup>th</sup> of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)). With regard to APTC, upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility for APTC effective as of the first day of the month following the date of the notice, regardless of whether this occurred before or after the 15<sup>th</sup> of the month (45 CFR § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

When an eligibility redetermination results in a change in the amount of APTC for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

### Enrollment in a Qualified Health Plan

The effective date of coverage by a QHP 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 issue under review is whether NYSOH properly determined that your spouse's enrollment in a QHP, as well as the application of APTC, was effective no earlier than May 1, 2017.

The record shows that on March 16, 2017 you updated the information in your NYSOH account and submitted a request to enroll in a QHP on behalf of your spouse. On March 17, 2017, NYSOH issued an enrollment confirmation notice stating that your spouse's enrollment in her QHP was effective May 1, 2017, and that APTC would be applied to her monthly premium effective May 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).

The date on which a QHP 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 fifteenth day of a month goes into effect on the first day of the following month. A plan that is after the fifteenth day of a month goes into effect on the first day of the second following month.

Ordinarily, since you selected a plan for enrollment on behalf of your spouse on March 16, 2017, her enrollment would begin the first day of the second following month; that is, on May 1, 2017.

However, in this case, you and your spouse were previously enrolled in a couple's QHP through the same insurance carrier during the month of January 2017. You updated your NYSOH account on January 16, 2017 to indicate that you were no longer applying for coverage, and your spouse was found newly eligible for APTC of \$198.00 per month, effective February 1, 2017. Additionally, NYSOH confirmed in writing in two separate written notices that she was enrolled in an individual bronze-level QHP through Fidelis as of February 1, 2017, with the new APTC amount and new premium in effect as of February 1, 2017 as well.

However, NYSOH also issued a disenrollment notice stating that you and your spouse were not disenrolled from your couple's QHP until February 28, 2017. These conflicting notices created confusion, as your QHP attempted to collect the couple's level premium for the month of February 2017, even though your understanding (as supported by the January 17, 2017 eligibility determination and enrollment confirmation notices) was that your coverage ended January 31, 2017, and your spouse's new coverage began on February 1, 2017. Based on this understanding, you made a payment for the new premium amount for your spouse's individual QHP at the end of January 2017.

Therefore, it was NYSOH's error in issuing conflicting notices that caused your spouse to ultimately be disenrolled from her individual QHP for nonpayment of premium, as NYSOH's notice created an overlap in your spouse's QHP coverage. As such, had NYSOH issued consistent and proper notices, your spouse would never have been disenrolled from coverage, and would never have had to re-enroll in coverage.

Therefore, NYSOH's January 17, 2017 disenrollment notice is MODIFIED to state that you and your spouse were disenrolled from your couple's bronze-level QHP as of January 31, 2017.

Also, NYSOH's March 17, 2017 enrollment confirmation notice is MODIFIED to state that your spouse's enrollment in her individual bronze-level QHP through Fidelis Care, along with the application of her \$198.00 APTC to her monthly premium, began on February 1, 2017.



Your case is RETURNED to NYSOH to backdate your spouse's enrollment to February 1, 2017, and to coordinate with Fidelis to ensure that any payments you have made to Fidelis in 2017 are appropriately applied to your spouse's monthly premium obligation.

## **Decision**

The January 17, 2017 disenrollment notice is MODIFIED to state that you and your spouse were disenrolled from your couple's bronze-level QHP effective January 31, 2017.

The March 17, 2017 enrollment confirmation notice is MODIFIED to state that your spouse's enrollment in her individual bronze-level QHP, along with the application of her \$198.00 APTC, began on February 1, 2017.

Your case is RETURNED to NYSOH to backdate your spouse's enrollment to February 1, 2017, and to coordinate with Fidelis to ensure that any payment you have made to Fidelis in 2017 are appropriately applied to your spouse's monthly premium obligation.

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

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

Your and your spouse's enrollment in your couple's QHP should have ended as of January 31, 2017.

Your spouse's enrollment in her individual QHP, along with the application of her \$198.00 in APTC, should have started on February 1, 2017.

Your case is being sent back to NYSOH to backdate your spouse's enrollment to February 1, 2017, and to ensure that any premium payments that you made in 2017 are appropriately applied to her coverage.

You may still be responsible for outstanding premium payments as a result of the backdating of her coverage.

## **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.

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).

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
- By fax: 1-855-900-5557

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## **Summary**

The January 17, 2017 disenrollment notice is MODIFIED to state that you and your spouse were disenrolled from your couple's bronze-level QHP effective January 31, 2017.

The March 17, 2017 enrollment confirmation notice is MODIFIED to state that your spouse's enrollment in her individual bronze-level QHP, along with the application of her \$198.00 APTC, began on February 1, 2017.

Your case is RETURNED to NYSOH to backdate your spouse's enrollment to February 1, 2017, and to coordinate with Fidelis to ensure that any payment you have made to Fidelis in 2017 are appropriately applied to your spouse's monthly premium obligation.

Your and your spouse's enrollment in your couple's QHP should have ended as of January 31, 2017.

Your spouse's enrollment in her individual QHP, along with the application of her \$198.00 in APTC, should have started on February 1, 2017.

Your case is being sent back to NYSOH to backdate your spouse's enrollment to February 1, 2017, and to ensure that any premium payments that you made in 2017 are appropriately applied to her coverage.

You may still be responsible for outstanding premium payments as a result of the backdating of her coverage.

## **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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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।

### **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 b etumi ama wo obi a okyer e 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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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