



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

Notice of Decision

Decision Date: October 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018225

[REDACTED]

Dear [REDACTED]

On August 29, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 31, 2016 retroactive disenrollment from your qualified health plan.

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: October 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018225

[REDACTED]

Issue

The issues 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 your qualified health plan ended effective August 31, 2016?

Procedural History

On December 8, 2015, NYSOH issued an eligibility determination notice stating you were eligible to purchase a qualified health plan at full cost, effective January 1, 2016.

Also on December 8, 2015, NYSOH issued an enrollment notice confirming your enrollment in a qualified health plan effective January 1, 2016.

On September 28, 2016, NYSOH issued a disenrollment notice indicating that coverage in your qualified health plan would end, effective October 31, 2016.

Also on September 28, 2016, NYSOH agreed to retroactively cancel your enrollment. Your coverage was terminated, effective August 31, 2016.

On October 24, 2016, NYSOH issued a notice indicating that your eligibility was redetermined on September 27, 2016 and you were no longer eligible to enroll in health insurance through NYSOH, effective November 1, 2016.

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On April 21, 2017, you contacted the NYSOH Account Review Unit and appealed the date you were disenrolled from your qualified health plan, requesting the disenrollment be made effective September 30, 2016.

On August 29, 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 enrolled in a qualified health plan, effective January 1, 2016.
- 2) The Appeals Unit reviewed telephone call recordings associated with your account and determined the following:
 - a. On September 22, 2016, you first contacted NYSOH to request cancellation of your qualified health plan coverage, because you had enrolled in employer sponsored health insurance.
 - i. You indicated you wanted to be covered through the end of the month.
 - ii. The representative advised you to contact your health plan, so you would not be charged for the following month.
 - b. On September 27, 2016, you contacted NYSOH to advise that the health plan had not yet received the cancellation request from NYSOH.
 - i. The NYSOH representative advised you that your coverage would end on October 31, 2016, because your request to cancel was after the 15th day of the month.
 - ii. You requested that your coverage end "at the end of this month." You also indicated that your employer sponsored health insurance coverage began on September 12, 2016.
 - iii. The representative indicated you might be able to get a retroactive disenrollment depending on the start date of your employer sponsored health coverage.
 - c. On September 29, 2016, you contacted NYSOH to request the status of your request to cancel your qualified health plan.

- i. The representative indicated the issue had been resolved and the “coverage end date was updated as you requested.” The representative indicated your “retroactive disenrollment went back to September 1st.”
 - ii. When you asked for clarification on the end date of your enrollment the representative responded, “Its cancelled as of September 30th, so it was cancelled as of September 1st to September 30th.”
- 3) According to your account, on September 27, 2016, incident # [REDACTED] was created regarding your request for retroactive disenrollment from your qualified health plan.
 - a. Notes from that incident include, “The consumer requests retroactive dis-enrollment to 09/01/2016 due to having coverage outside of the NYSOH.”
- 4) Your account confirms that on September 28, 2016, NYSOH agreed to backdate your disenrollment to September 1, 2016.
- 5) Notes in your account indicate that NYSOH contacted you by phone on September 29, 2016 to advise you that your disenrollment had been backdated.
- 6) There is no record of NYSOH issuing you a written notice of the modification of your qualified health plan coverage end date to August 31, 2016.
- 7) You testified that you never requested to end your qualified health plan coverage on August 31, 2016.
- 8) You testified that you had already used your health coverage in the month of September prior to cancelling it, so there is no reason you would request to retroactively cancel your coverage back to August 31, 2016.
- 9) You testified you were unaware that your coverage had been retroactively terminated back to August 31, 2016 until you received a bill in February 2017 for treatment received in September 2016. You testified that you had to pay out of pocket for that treatment.
- 10) You testified you are requesting to modify the end date of your qualified health plan coverage to September 30, 2016.

- 11) According to your account, on March 15, 2017, incident [REDACTED] was created regarding your request to modify your coverage end date to September 30, 2017. That request was denied.

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)).

NYSOH must permit an enrollee to retroactively terminate or cancel their enrollment in a qualified health plan 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 qualified health plan 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 qualified health plan 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 qualified health plan 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 your enrollment in your qualified health plan ended effective August 31, 2016.

On December 8, 2015, NYSOH issued an eligibility determination notice stating you were eligible to purchase a qualified health plan at full cost, effective January 1, 2016. You subsequently enrolled into a qualified health plan.

On September 28, 2016, NYSOH issue a disenrollment notice indicating you would be disenrolled from your qualified health plan effective October 31, 2016.

You testified that you are seeking retroactive disenrollment from your qualified health plan, effective September 30, 2016.

NYSOH must permit an enrollee to be retroactively disenroll from their qualified health plan 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 a qualified health plan, as confirmed in the December 8, 2015 enrollment notice, was unintentional, inadvertent, or erroneous, nor was your enrollment in a qualified health plan 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 qualified health plan was without your knowledge or consent.

Therefore, there is no basis to find that NYSOH must permit you to retroactively terminate or cancel your enrollment in a qualified health plan.

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Since you did not provide NYSOH with proper notice of your election to terminate your coverage, at least 14 days notice, according to the regulations, your coverage was properly terminated the last day of the next following month; that is, on October 31, 2016.

However, the telephone call recording records confirm that you contacted NYSOH on September 22, 2016 and again on September 27, 2016 to request disenrollment from your qualified health plan, effective September 30, 2016. Although you indicated that you had obtained insurance through your employer, you stated that this coverage did not begin until September 12, 2016. Notwithstanding, your account confirms that on September 28, 2016, NYSOH agreed to retroactively cancel your enrollment, effective August 31, 2016.

Pursuant to the above cited regulations, NYSOH must permit an enrollee to terminate his or her coverage with a qualified health plan coverage 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.

As discussed above, the record confirms that NYSOH, and presumably the health plan, agreed to retroactively terminate your coverage. However, your coverage was terminated back to August 31, 2016 and you testified you are seeking modification of this end date to September 30, 2016. Thus, the sole remaining issue under review is the appropriate end date of your qualified health plan coverage based on the consent of the parties.

You testified, and the telephone call recordings confirm, that you requested to cancel your coverage effective September 30, 2016, not August 31, 2016. Thus, NYSOH's retroactive termination of your coverage back to August 30, 2016 was without your consent.

Therefore, based on the evidence that NYSOH and the health plan have consented to retroactively disenroll you from your health plan and the evidence that you requested to end your coverage on September 30, 2016, it is concluded that NYSOH erroneously retroactively terminated your coverage on August 31, 2016 rather than September 30, 2016.

Accordingly, the retroactive disenrollment from your qualified health plan to August 31, 2016 is MODIFIED to reflect that your coverage through your plan ended on September 30, 2016, based on the consent of the parties.

Your case is RETURNED to NYSOH to reinstate you in your qualified health plan for the month of September 2016.

It is noted, that your April 21, 2017 formal appeal of the end date of your coverage is not untimely in this case because the record reflects that NYSOH

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never issued a written notice of the modification of your qualified health plan coverage end date to August 30, 2016. As such, the time period in which to appeal that modification has not begun.

Decision

The retroactive disenrollment from your qualified health plan to August 31, 2016 is MODIFIED to reflect that your coverage through your plan ended on September 30, 2016.

Your case is RETURNED to NYSOH to reinstate you in your qualified health plan for the month of September 2016.

Effective Date of this Decision: October 13, 2017

How this Decision Affects Your Eligibility

You should not have been disenrolled from your qualified health plan until September 30, 2016.

Your case is being sent back to NYSOH to reinstate you in your plan for the month of September 2016.

You will be responsible for premium payments for any month in which you are enrolled in 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.

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)).

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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

Summary

The retroactive disenrollment from your qualified health plan to August 31, 2016 is MODIFIED to reflect that your coverage through your plan ended on September 30, 2016.

Your case is RETURNED to NYSOH to reinstate you in your qualified health plan for the month of September 2016.

You should not have been disenrolled from your qualified health plan until September 30, 2016.

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 will be responsible for premium payments for any month in which you are enrolled in 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&etumi ama wo obi a okyerε 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 איר געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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