



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

Notice of Decision

Decision Date: September 21, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018837

[REDACTED]

[REDACTED],

On August 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 23, 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).

This page intentionally left blank.



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

Decision

Decision Date: September 21, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018837

[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 your enrollment in your bronze-level qualified health plan ended effective April 30, 2017?

Procedural History

On January 31, 2017, NYSOH issued an eligibility determination notice stating in part that you were eligible to receive up to \$229.00 per month in advance payments of the premium tax credits (APTC) and, if you selected a silver-level qualified health plan (QHP), for cost-sharing reductions. This eligibility was effective March 1, 2017.

Also on January 31, 2017, NYSOH issued a plan enrollment notice confirming in part that your enrollment in a bronze level QHP with a monthly premium responsibility of \$129.71 after your APTC of \$229.00 was applied, both effective March 1, 2017.

On March 23, 2017, NYSOH issued a disenrollment notice indicating that coverage in your bronze-level QHP would end effective April 30, 2017. The notice stated that you asked NYSOH to end this coverage on March 22, 2017.

On May 10, 2017, you contacted the NYSOH Account Review Unit and appealed the date you were disenrolled from your bronze-level QHP insofar as it was not effective March 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).

On August 17, 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) According to your NYSOH account and your testimony, you initially applied for health insurance with NYSOH on January 30, 2017 and were determined eligible for APTC and cost sharing reductions, effective March 1, 2017.
- 2) According to your NYSOH account and your testimony, on January 30, 2017, you selected a bronze-level QHP and were enrolled with a plan start date of March 1, 2017.
- 3) You testified that you wanted a health plan that included dental coverage.
- 4) According to your NYSOH account and your testimony, on February 21, 2017, you contacted NYSOH to request a special enrollment period because the NYSOH customer service representative (CSR) told you in the January 30, 2017 call that you would be able to change your plan or add a dental plan at any time.
- 5) According to your NYSOH account, on March 21, 2017, NYSOH granted your request for a special enrollment period because a review of the January 30, 2017 call recording indicated the CSR did not provide you with the proper options in making your plan selection.
- 6) According to your NYSOH account and your testimony, on March 22, 2017, a NYSOH CSR contacted you, at which time you requested disenrollment from your bronze-level QHP and were allowed to select a new bronze-level QHP that included dental coverage.
- 7) According to your NYSOH account, your bronze-level QHP ended effective April 30, 2017, and your coverage in the bronze-level QHP with dental coverage started May 1, 2017.
- 8) You testified that you paid a premium to your bronze-level QHP for the months of March 2017 and April 2017.
- 9) You testified that you did not use your bronze-level QHP in the months of March 2017 and April 2017.

- 10) You testified that you are seeking retroactive disenrollment from your bronze level QHP effective March 1, 2017, and a return of the premiums that you paid for that plan.

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 bronze-level QHP ended effective April 30, 2017.

On January 31, 2017, NYSOH issued an eligibility determination notice stating in relevant part, that you were eligible to receive up to \$229.00 per month in APTC and, if you selected a silver-level QHP, for cost-sharing reductions. You enrolled into a bronze-level QHP with the plan enrollment start date and APTC effective March 1, 2017.

On March 23, 2017, NYSOH issue a disenrollment notice indicating you would be disenrolled from your bronze-level QHP effective April 30, 2017.

You testified that you are seeking retroactive disenrollment from your bronze-level QHP effective March 1, 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 qualified health plan without their knowledge or consent by a third party.

The credible evidence in the record indicates that on January 30, 2017 the NYSOH CSR did not provide you with the proper options in making your plan selection. You testified that you wanted a QHP that included dental coverage. On February 21, 2017, you contacted NYSOH to request a special enrollment period because the NYSOH CSR told you in the January 30, 2017 call, that you would be able to change your plan or add a dental plan at any time.

The record reflects that, on March 21, 2017, NYSOH granted your request for a special enrollment period because a review of the January 30, 2017 call recording indicated the CSR did not provide you with the proper options in making your plan selection. On March 22, 2017, a NYSOH CSR contacted you regarding the special enrollment period you were granted, at which time you requested disenrollment from your bronze-level QHP and selected a new bronze-level QHP that included dental coverage, effective May 1, 2017.

The credible evidence in the record shows that your enrollment on January 30, 2017 in the bronze-level QHP was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of NYSOH. Further, your March 22, 2017 request to cancel that bronze-level QHP was made within 60 days of discovering the unintentional, inadvertent, or erroneous enrollment.

Therefore, the March 23, 2017 disenrollment notice is MODIFIED to state that your bronze-level QHP ended effective March 1, 2017.

Your case is RETURNED to NYSOH to effectuate this change and to notify you accordingly.

Decision

The March 23, 2017 disenrollment notice is MODIFIED to reflect that coverage in your bronze-level QHP ended March 1, 2017.

Your case is RETURNED to NYSOH to effectuate this change and to notify you accordingly.

Effective Date of this Decision: September 21, 2017

How this Decision Affects Your Eligibility

This decision changes your disenrollment date of your bronze-level QHP from April 30, 2017 to March 1, 2017.

NYSOH will notify you once the disenrollment date has been corrected.

You may then seek reimbursement of premium from the health plan directly.

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 March 23, 2017 disenrollment notice is MODIFIED to reflect that coverage in your bronze-level QHP ended March 1, 2017.

Your case is RETURNED to NYSOH to effectuate this change and to notify you accordingly.

This decision changes your disenrollment date of your bronze-level QHP from April 30, 2017 to March 1, 2017.

NYSOH will notify you once the disenrollment date has been corrected.

You may then seek reimbursement of premium from the health plan directly.

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।

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).

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&btumi 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 אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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).