



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

## Notice of Decision

Decision Date: September 25, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019202



Dear [REDACTED],

On September 5, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 24, 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: September 25, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019202



## 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 and your spouse's enrollment in your qualified health plan (QHP) ended effective June 30, 2017?

## Procedural History

On December 8, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a QHP at full cost through NYSOH, effective January 1, 2017. The notice also stated that your child was eligible to enroll in a full cost Child Health Plus (CHP) plan, or a child-only QHP, effective January 1, 2017.

Also on December 8, 2016, NYSOH issued an enrollment notice confirming you and your spouse's enrollment in a Healthfirst QHP, effective January 1, 2017. The notice also confirmed that your child was enrolled in a CHP plan, and that his enrollment had started October 1, 2016.

On May 23, 2017, you updated your NYSOH account and indicated that no one in your household needed health insurance.

That same day, you spoke with NYSOH's Account Review Unit and appealed the date that you and your spouse were disenrolled from your QHP coverage, and the date that your son was disenrolled from his CHP coverage, insofar as the disenrollments were not effective as of April 30, 2017.

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On May 24, 2017, NYSOH issued a discontinuance notice stating that you, your spouse, and your child were not eligible for health insurance through NYSOH because you no longer wanted to receive coverage. This eligibility was effective July 1, 2017.

Also on May 24, 2017, NYSOH issued a disenrollment notice indicating that you and your spouse's coverage in your QHP would end effective June 30, 2017, and your child's coverage in his CHP plan would also end effective June 30, 2017.

On September 5, 2017, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. The record was developed during the hearing and held open through September 20, 2017 to give you time to submit supporting documentation.

On September 15, 2017, you sent a two-page fax to the Appeals Unit. The record is now closed.

## **Findings of Fact**

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

- 1) You testified that you, your spouse, and your child left NY State and moved to [REDACTED].
- 2) You testified that you applied for coverage through the Exchange in [REDACTED] and that your family's new coverage began on May 1, 2017.
- 3) You testified that you initially tried to cancel your coverage in NY State by going onto your QHP's website and cancelling your automatic payments. You testified that you did this sometime in April 2017.
- 4) You testified that you thought you had fully cancelled payments for your QHP and your child's CHP, but the payments were not terminated.
- 5) You testified that you do not recall when you first contacted NYSOH to try to cancel your coverage, as you first tried to work with your QHP to accomplish the cancellation.
- 6) You testified that, after you received notice that another payment had been automatically made to your QHP, even after you tried to cancel your coverage, you contacted NYSOH. You testified that this was probably the same day on which you filed your appeal.

- 7) You testified you believed that at some point your child's cancellation was backdated, so you were only pursuing this appeal on behalf of yourself and your spouse.
- 8) You testified that you are looking for a refund of your QHP premium payments for the months of May and June 2017.
- 9) You testified that neither you nor your spouse used your QHP in the months of May and June.
- 10) After the hearing, you faxed a two-page document to the Appeals Unit consisting of a one-page fax cover sheet, and a one-page "Certificate of Health Plan Coverage" showing that you, your spouse, and your child have coverage through [REDACTED] as of May 1, 2017. This document is marked and entered into the record as "Appellant's Exhibit One."

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)).

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 and your spouse's enrollment in your QHP ended effective June 30, 2017,

On December 8, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a QHP at full cost, effective January 1, 2017. You subsequently enrolled into a Healthfirst QHP.

On May 24, 2017, NYSOH issue a disenrollment notice indicating you and your spouse would be disenrolled from your QHP, effective June 30, 2017.

You testified that you and your family moved to ██████████ in March 2017, and the record confirms that you began receiving coverage through a health plan in ██████████ as of May 1, 2017. You testified that you initially tried to cancel your coverage in April 2017 by cancelling your automatic payment, but that this did not work, and that you ended up paying premiums for May and June 2017. You testified that after you were unsuccessful in cancelling your coverage through your QHP, you contacted NYSOH instead. The record confirms that you contacted NYSOH on May 23, 2017 and updated your application to reflect that no one in your household needed health insurance. You testified that you

requested to have the termination of your coverage backdated to April 30, 2017, but that your request was denied, and you filed an appeal.

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.

You requested termination of your coverage on May 23, 2017. To have your coverage terminated as of April 30, 2017, you would have needed to request cancellation of your coverage no later than April 16, 2017. Since you requested termination on May 23, 2017, NYSOH could also not terminate your coverage as of May 31, 2017, as there was also not enough notice for that date. Therefore, since NYSOH does not allow for the termination of coverage in the middle of a month, NYSOH terminated your insurance coverage with your QHP effective June 30, 2017, which is the last day of the month following your May 23, 2017 request.

NYSOH must permit an enrollee to be retroactively disenrolled 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 8, 2016 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 as confirmed in the December 8, 2016 enrollment notice was without your knowledge or consent.

Since you and your spouse do not qualify to be retroactively disenrolled from your coverage and you did not provide reasonable notice to NYSOH for the cancellation date requested, NYSOH properly determined that you and your spouse's disenrollment in your QHP was effective June 30, 2017, and the May 24, 2017 disenrollment notice is AFFIRMED.

However, your testimony indicated that you tried to disenroll from coverage sooner by cancelling your payments to your QHP in April 2017 through your QHP's website, but your QHP continued to take your premium payments. Therefore, your case is RETURNED to NYSOH's Plan Management to assist you

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in communicating with Healthfirst to discuss whether they will agree to an earlier coverage termination date.

## **Decision**

The May 24, 2017 disenrollment notice is AFFIRMED.

Your case is RETURNED to NYSOH's Plan Management to assist you in communicating with your QHP to discuss whether they will agree to an earlier coverage termination date.

**Effective Date of this Decision:** September 25, 2017

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

This decision does not change you and your spouse's disenrollment date. Your enrollment in your QHP ended as of June 30, 2017.

However, your case is being sent back to NYSOH's Plan Management to assist you in communicating with Healthfirst regarding your request for an earlier coverage termination date, on the basis that you tried to cancel your premium payments on your QHP's website in April 2017.

## **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:

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 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 May 24, 2017 disenrollment notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH's Plan Management to assist you in communicating with your QHP to discuss whether they will agree to an earlier coverage termination date.

This decision does not change you and your spouse's disenrollment date. Your enrollment in your QHP ended as of June 30, 2017.

However, your case is being sent back to NYSOH's Plan Management to assist you in communicating with Healthfirst regarding your request for an earlier

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coverage termination date, on the basis that you tried to cancel your premium payments on your QHP's website in April 2017.

## **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।

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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&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.

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