



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

## Notice of Decision

Decision Date: September 26, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019912

[REDACTED]

[REDACTED]

On September 14, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 18, 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: September 26, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019912

[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 qualified health plan (QHP) ended effective July 31, 2017?

## Procedural History

On October 18, 2016, NYSOH issued a renewal notice stating that it was time to renew your insurance coverage for 2017. The notice stated that, based on state and federal data sources, you were eligible for a tax credit of up to \$75.26 per month, effective January 1, 2017.

On November 19, 2016, NYSOH issued an enrollment notice confirming your enrollment in a QHP, with a monthly premium of \$315.03, after the application of your tax credit, beginning January 1, 2017.

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

On June 18, 2017, NYSOH issued a disenrollment notice indicating your coverage in your QHP would end effective July 31, 2017.

On June 21, 2017, you spoke to NYSOH's Account Review Unit and appealed the date you were disenrolled from your QHP, requesting the disenrollment be made effective June 7, 2017.

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On September 14, 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 testified that you became a full-time employee with your employer in the month of May 2017, after working there as a temporary employee.
- 2) You testified that you found out sometime around May 6, 2017 that you would be eligible for health insurance, but there was a thirty-day waiting period before you could enroll.
- 3) You testified that you first contacted NYSOH to cancel your QHP coverage sometime around June 18, 2017.
- 4) You testified that you waited until you received your enrollment packet from your new employer-sponsored insurance plan before contacting NYSOH because you were afraid that NYSOH or your QHP would drop you if they found out that you were getting other coverage.
- 5) You testified that, when you contacted NYSOH on or around June 18, 2017, you were sent back and forth between NYSOH and your QHP a couple of times.
- 6) You testified that, ultimately, someone at NYSOH informed you that they could not cancel your coverage any earlier than June 30, 2017.
- 7) Your NYSOH account confirms that, on June 16, 2017, a note was entered into your account by a NYSOH agent which states, "ESHI effective 06.08.17 - coverage end date changed from 07.31.17 to 06.30.17."
- 8) You testified that, since your coverage with your employer started on June 7, 2017, you wanted a pro-rated refund of your June 2017 premium payment for the period between June 8, 2017 and June 30, 2017.
- 9) You testified that NYSOH informed you that they do not give partial refunds, and you do not believe this is right, as you did not agree to that when you signed up for coverage.
- 10) You testified that you paid your June 2017 premium around the 22<sup>nd</sup> or 23<sup>rd</sup> of May 2017.

11) You testified that you did not use your QHP coverage in the month of June 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, 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

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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 your enrollment in your QHP ended effective July 31, 2017.

On October 18, 2016, NYSOH issued a renewal notice stating that you were eligible to receive up to \$75.26 in advance payments of the premium tax credit, effective January 1, 2017. You subsequently enrolled into a QHP.

On June 18, 2017, NYSOH issue a disenrollment notice indicating you would be disenrolled from your QHP, effective July 31, 2017. Two days prior to the issuance of this notice, NYSOH backdated the termination date of your coverage to June 30, 2017.

You testified that you are seeking retroactive disenrollment from your QHP, effective June 7, 2017, because your employer-sponsored coverage began on that date.

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 November 19, 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 November 19, 2016 enrollment notice, 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 QHP.

The record reflects that on June 16, 2017, you contacted NYSOH and requested that you be disenrolled from your 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 initially terminated your insurance coverage with your QHP effective July 31, 2017. Since your request was made on June 16, 2017, it was proper for NYSOH to then backdate your disenrollment to June 30, 2017, as your request was made at least fourteen days prior to June 30, 2017.

You testified that you are looking for your coverage to end as of June 7, 2017, because that is when your employer-sponsored coverage began. However, there is no basis for backdating your disenrollment any earlier than June 30, 2017, as your request was not made until June 16, 2017. Moreover, you could have requested disenrollment sooner, as you knew on or around May 6, 2017 that you were becoming a full-time employee, and that you would have coverage through your employer in thirty days. However, you chose to wait to request disenrollment from your plan until June 16, 2017, which resulted in a disenrollment date of June 30, 2017.

Since you do not qualify to be retroactively disenrolled from your coverage and you did not provide reasonable notice to NYSOH, your disenrollment from your QHP properly took place on June 30, 2017.

Therefore, the June 18, 2017 disenrollment notice is MODIFIED to state that you were disenrolled from your QHP as of June 30, 2017.

## **Decision**

The June 18, 2017 disenrollment notice is MODIFIED to state that your disenrollment from your QHP was effective June 30, 2017.

**Effective Date of this Decision:** September 26, 2017

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

This decision does not change your disenrollment date, as previously modified by NYSOH. Your enrollment in your QHP ended as of June 30, 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:

- 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 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).



## **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 June 18, 2017 disenrollment notice is MODIFIED to state that your disenrollment from your QHP was effective June 30, 2017.

This decision does not change your disenrollment date, as previously modified by NYSOH. Your enrollment in your QHP ended as of June 30, 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 bɛtumi ama wo obi a okyerɛ 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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