



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: AP000000020540

[REDACTED]

Dear [REDACTED],

On October 4, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 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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Decision

Decision Date: October 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020540

[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 the enrollment of you and your spouse in your qualified health plan ended no earlier than August 31, 2017?

Procedural History

On November 18, 2016, NYSOH issued an enrollment notice confirming the enrollment of you and your spouse in a qualified health plan, effective January 1, 2017.

On July 17, 2017, your application was updated to decline insurance for both you and your spouse. That day you were advised that your enrollment would not end until August 31, 2017.

Also on July 17, 2017, you contacted the NYSOH Account Review Unit and appealed the end date of your enrollment from your qualified health plan, requesting the disenrollment be made effective June 30, 2017.

On July 18, 2017, NYSOH issued a disenrollment notice indicating that coverage in your qualified health plan would end for you and your spouse, effective August 31, 2017.

On October 4, 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 and your spouse enrolled in a qualified health plan, effective January 1, 2017.
- 2) You testified that you moved out of state at the end of June 2017.
- 3) You testified that you went online in mid-June and attempted to disenroll from your qualified health plan, but you were unable to. You testified that you were prompted to indicate whether you had alternate health coverage set up and when you answered no you were unable to disenroll from your plan. You testified you are unsure of what website you used, but you testified that it may have been the health plan's website.
- 4) There is no evidence in your NYSOH account of an attempt to disenroll from your qualified health plan prior to the call on July 17, 2017.
- 5) On July 17, 2017, incident # [REDACTED] was created regarding your request to retroactively terminate your health plan enrollment back to June 30, 2017.
- 6) The subsequent disenrollment notice issued by NYSOH on July 18, 2017 indicated the enrollment of you and your spouse in your qualified health plan would end on August 31, 2017.
- 7) You testified you are seeking retroactive disenrollment for you and your spouse from your health plan back to June 30, 2017, because you were not living in New York State in July and August 2017 and you did not use your coverage.
- 8) You testified that you did not pay the premiums for July or August 2017 and the health plan is billing you for those months.
- 9) You testified you enrolled in new coverage out of state, effective August 1, 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 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 the enrollment of you and your spouse in your qualified health plan ended no earlier than August 31, 2017.

You and your spouse enrolled in a qualified health plan through NYSOH, effective January 1, 2017.

Although you testified you first tried to disenroll from your health plan in mid-June on an unspecified website, but were unable to, there is no evidence in your NYSOH account of an attempt to disenroll from your qualified health plan prior to your call on July 17, 2017. It is noted that any unsuccessful attempts to disenroll from your plan through the health plan's website does not constitute sufficient notice to NYSOH of your intent to cancel your enrollment. Thus, the competent evidence of record establishes that NYSOH first received your request to cancel the enrollment of you and your spouse from your qualified health plan on July 17, 2017.

According to the regulations, NYSOH must permit enrollee to be retroactively disenrolled from his or her qualified health plan if the enrollee demonstrates that there was a technical error that should have allowed the coverage to terminate earlier; if the 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 his or her knowledge or consent by a third party.

There is no indication in the record that the enrollment of you and your spouse in a qualified health plan, as confirmed in the November 18, 2016 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 the enrollment of you and your spouse in a qualified health plan was without your knowledge or consent. Additionally, there is insufficient evidence of a technical error that prevented you from terminating your coverage earlier.

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

The record reflects that on July 17, 2017, you contacted NYSOH and requested that you and your spouse be disenrolled from your qualified health plan.

Enrollees must be allowed to terminate their coverage with a qualified health plan 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. The record reflects that you did not provide NYSOH with reasonable notice of your election to terminate your coverage, thus, you are not entitled to specify the end date of your coverage.

However, according to the regulations, if an enrollee does not provide reasonable notice of their election to terminate their enrollment, the enrollment will end 14 days after the enrollee requests the termination.

In the present case, as discussed above, you did not provide reasonable notice of your election to terminate your coverage. Therefore, your coverage should have ended 14 days after July 17, 2017, the date you requested termination; that is, on July 31, 2017.

Thus, the July 18, 2017 disenrollment notice stating the enrollment of you and your spouse in your qualified health plan would end on August 31, 2017, is MODIFIED to reflect your enrollment ended July 31, 2017.

Your case is RETURNED to NYSOH to correct your enrollment in accordance with this decision.

Decision

The July 18, 2017 disenrollment notice stating the enrollment of you and your spouse in your qualified health plan would end on August 31, 2017, is MODIFIED to reflect your enrollment ended July 31, 2017.

Your case is RETURNED to NYSOH to correct your enrollment in accordance with this decision.

Effective Date of this Decision: October 13, 2017

How this Decision Affects Your Eligibility

You and your spouse are not eligible for retroactive disenrollment of your qualified health plan.

The enrollment of you and your spouse in your qualified health plan ended on July 31, 2017.

Your case is being sent back to NYSOH to correct your enrollment.

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 July 18, 2017 disenrollment notice stating the enrollment of you and your spouse in your qualified health plan would end on August 31, 2017, is MODIFIED to reflect your enrollment ended July 31, 2017.

Your case is RETURNED to NYSOH to correct your enrollment in accordance with this decision.

You and your spouse are not eligible for retroactive disenrollment of your qualified health plan.

The enrollment of you and your spouse in your qualified health plan ended on July 31, 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।

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 okyer& 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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