



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

Notice of Decision

Decision Date: November 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021611

[REDACTED]

Dear [REDACTED],

On October 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: November 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021611

[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 (QHP) ended effective September 30, 2017?

Procedural History

On July 11, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a silver-level QHP at a cost of \$434.23 per month, effective August 1, 2017.

On August 17, 2017, NYSOH issued an eligibility determination notice, based on your August 16, 2017 updated application, stating that you were eligible to enroll in the Essential Plan for a limited time, effective October 1, 2017. The notice further directed you to provide proof of your household income by November 14, 2017.

On August 18, 2017, NYSOH issued a disenrollment notice indicating that coverage in your QHP would end effective September 30, 2017. This was because you were no longer eligible to enroll in that coverage. The notice further stated that your enrollment in your Essential Plan ends on October 1, 2017. This was because you asked to end your coverage on August 16, 2017.

Also on August 18, 2017, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination as it related to the

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disenrollment date of your QHP, requesting that disenrollment date be made effective August 31, 2017.

On October 20, 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 hearing.

Findings of Fact

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

- 1) According to your NYSOH account, you were enrolled in a QHP through NYSOH and that your coverage was effective as of August 1, 2017.
- 2) You testified that you paid premiums to your health plan for August 2017. You testified that you did not pay your premium for the last month you had coverage, which was September 2017.
- 3) According to your NYSOH account, you updated your application on August 16, 2017, and you were found conditionally eligible for the Essential Plan and a cancellation was submitted to the health plan.
- 4) You testified that you attempted to cancel your QHP on August 16, 2017, but missed the date to terminate your policy by one day.
- 5) According to a telephone call record, dated August 16, 2017, you called NYSOH and were transferred to the Account Review Unit. There was no audio recording of the telephone call record from that day with NYSOH's Account Review Unit available to the Hearing Officer.
- 6) According to a telephone call record, dated August 18, 2017, you told the NYSOH representative that you called to request that your policy be terminated on August 16, 2017 but were told that because you were already billed for September 2017, they were unable to retroactively disenroll you from your QHP. You further stated that you were trying to rectify this issue for several days to no avail.
- 7) According to the Enrollment History Tab in your NYSOH account, you were terminated from your QHP as of August 31, 2017.
- 8) According to the Eligibility and Enrollment Tab in your NYSOH account, you were not enrolled in your QHP in the month of September 2017.

- 9) You testified that you are seeking an earlier disenrollment date because you are being billed by the health plan for the month of September 2017. You did not use your insurance through your QHP during that month.

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 coverage, 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 your enrollment in your QHP ended effective September 30, 2017, and not August 31, 2017.

On July 11, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a QHP at full cost, effective August 1, 2017. You subsequently enrolled into a QHP.

You testified that you are seeking retroactive disenrollment from your QHP, effective August 31, 2017.

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.

You credibly testified, and your NYSOH account indicates, that on August 16, 2017, you contacted NYSOH to disenroll from your QHP plan through NYSOH, to be effective as of August 31, 2017.

Notwithstanding that NYSOH did not have the audio recording of the August 16, 2017 telephone call in which you testified to disenrolling from your QHP, your credible testimony along with your NYSOH account and the additional call records dated August 16, 2017 and August 18, 2017 support that, on August 16, 2017, you contacted NYSOH to disenroll from your QHP plan through NYSOH as of August 31, 2017.

Since the credible evidence of record shows that telephone conversations took place between you and NYSOH on August 16, 2017, at which time you credibly testified you requested to disenroll from your QHP, effective August 31, 2017, it is reasonable to conclude that a technical error occurred that prevented your August 16, 2017 request to terminate your coverage as of August 31, 2017 from being processed.

Further, 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.

NYSOH terminated your insurance coverage with your qualified health plan effective September 30, 2017, which is the last day of the second month following your August 18, 2017 request. However, and as already established, the record indicates that you initially requested to terminate your coverage on August 16, 2017.

Since, August 16, 2017 is 15 days prior to August 31, 2017, you provided reasonable notice to NYSOH to cancel your QHP as of that date.

Based on the technical error preventing your request to terminate your QHP on August 16, 2017, and the evidence supporting that you gave reasonable notice, your disenrollment from your QHP should have been made effective August 31, 2017.

Therefore, the August 18, 2017 disenrollment notice is MODIFIED to state that your coverage in your QHP ended effective August 31, 2017.

Your case is RETURNED to NYSOH to facilitate your disenrollment, effective as of August 31, 2017, and to notify you accordingly.

Decision

The August 18, 2017 disenrollment notice is MODIFIED to state that your coverage in your QHP ended effective August 31, 2017.

Your case is RETURNED to NYSOH to facilitate your disenrollment with the health plan, effective as of August 31, 2017, and to notify you accordingly.

Effective Date of this Decision: November 20, 2017

How this Decision Affects Your Eligibility

You gave reasonable notice in requesting on August 16, 2017, that your enrollment in your QHP plan be terminated as of August 31, 2017. Because of a technical error, your request was not processed.

Your case is being sent back to NYSOH to disenroll you from your QHP, as of August 31, 2017. NYSOH will notify you once this has been completed.

Once the disenrollment date is modified to August 31, 2017, you will not have health insurance coverage in your QHP through NYSOH as of September 1, 2017.

This Decision does not affect any of your subsequent eligibility determinations.

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 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 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 August 18, 2017 disenrollment notice is MODIFIED to state that your coverage in your QHP ended effective August 31, 2017.

Your case is RETURNED to NYSOH to facilitate your disenrollment with your health plan, effective as of August 31, 2017, and to notify you accordingly.

You gave reasonable notice in requesting on August 16, 2017, that your enrollment in your QHP plan be terminated as of August 31, 2017. Because of a technical error, your request was not processed.

Your case is being sent back to NYSOH to disenroll you from your QHP, as of August 31, 2017. NYSOH will notify you once this has been completed.

Once the disenrollment date is modified to August 31, 2017, you will not have health insurance coverage in your QHP through NYSOH as of September 1, 2017.

This Decision does not affect any of your subsequent eligibility determinations.

Legal Authority

We are issuing this determination in accordance with 45 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).

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)

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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 okyerE 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.

אײִדיש (Yiddish)

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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).