



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

Notice of Decision

Decision Date: November 9, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021963

[REDACTED]

[REDACTED]

On November 2, 2017, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health's September 13, 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
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Decision

Decision Date: November 9, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021963

[REDACTED]

Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly end your spouse's qualified health plan (QHP) coverage as of September 30, 2017?

Whether you are eligible to be reimbursed for the July, August, and September 2017 health insurance premiums that were paid to the health insurance company?

Procedural History

On May 3, 2016, NYSOH issued you a renewal notice stating that it was time to renew your insurance coverage. The notice stated that, based on state and federal data sources, you were still qualified to get health care coverage under Medicaid, effective July 1, 2016.

On March 22, 2017, your account was updated.

On March 23, 2017, NYSOH issued an eligibility determination notice stating, in relevant parts: (1) You were no longer eligible for Medicaid; however, your Medicaid coverage would continue until June 30, 2017; (2) Your spouse was eligible for a tax credit up to \$267.00 per month and cost-sharing reductions, effective as of May 1, 2017.

Also on March 23, 2017, NYSOH issued a plan enrollment notice confirming that as of March 22, 2017, your spouse was enrolled in a QHP with an enrollment start date of March 1, 2017.

On May 2, 2017, NYSOH issued a plan enrollment notice confirming that as of May 1, 2017, you were enrolled in a Medicaid Managed Care (MMC) plan with an enrollment start date of June 1, 2017.

On May 4, 2017, NYSOH issued you a renewal notice stating that it was time to renew your insurance coverage. The notice stated that, based on state and federal data sources, you and your spouse were qualified for tax credit up to \$706.09 per month, effective July 1, 2017. The directed you to select a health plan between May 16, 2017 and June 15, 2017, for the next coverage year.

On May 17, 2017, NYSOH issued a disenrollment notice stating that your MMC coverage would end on June 30, 2017.

On July 6, 2017, your account was updated.

On July 7, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible for a tax credit up to \$672.00 per month and cost-sharing reductions, effective August 1, 2017.

On August 30, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal relative to the enrollment start date of your and your spouse's QHP.

On September 6, 2017, NYSOH issued an enrollment notice confirming that as of September 5, 2017, you and your spouse were enrolled in a QHP with an enrollment start date of March 1, 2017.

On September 12, 2017, your account was updated.

On September 13, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were no longer eligible for health insurance effective October 1, 2017, because you no longer wanted to receive coverage.

Also on September 13, 2017, NYSOH issued a disenrollment notice stating, in relevant part, that your spouse's QHP coverage would end on September 30, 2017.

On November 2, 2017, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. During the hearing, the issue under appeal was modified to the termination date of your spouse's QHP coverage. 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 testimony, you were enrolled in Medicaid coverage and that coverage ended as of June 30, 2017.
- 2) According to your NYSOH account and testimony, your spouse was enrolled in a silver-level Fidelis Care QHP as of March 1, 2017.
- 3) You testified that, on July 6, 2017, you attempted to enroll you and your spouse in a bronze-level QHP; however, you were unable to because of a system defect.
- 4) According to the Appeal Summary in the evidence packet that was created in anticipation of your hearing:

On 7/6/2017, appellant...met with a Marketplace assistor to update the application and was determined eligible for APTC/CSR effective 08/01/2017. A We Are Sorry defect arose on the account which prevented plan enrollment for the appellant. [REDACTED] was filed in an attempt to correct the error

- [REDACTED]
- 5) According to your account, you were enrolled in a silver-level Fidelis Care QHP, with an enrollment start date of October 1, 2017.
 - 6) On September 12, 2017, your NYSOH account was updated to reflect that you and your spouse were no longer applying for health coverage through NYSOH.
 - 7) According to your NYSOH account and testimony, your spouse's silver-level Fidelis Care QHP ended as of September 30, 2017.
 - 8) You testified that you want your spouse's QHP coverage to end as of July 1, 2017.
 - 9) You further testified that you want to be reimbursed for the health insurance premium payments for the months of July, August, and September 2017.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Special Enrollment Period (SEP)

After each open enrollment period ends, NYSOH provides a SEP to qualified individuals or their dependents. During a SEP, a qualified individual may enroll in a QHP and an enrollee may change to another QHP (45 CFR § 155.420(a)(1)).

NYSOH must allow a qualified individual or his or her dependent to enroll in a QHP if the qualified individual or their dependent loses minimum essential coverage (45 CFR § 155.420(d)(1)(i)).

Generally, the effective date for a QHP is the first day of the following month if the enrollment is received by NYSOH on or before the fifteenth day of the month, and enrollments received after the fifteenth day of the month are effective the first day of the second following month (45 CFR § 155.420(b)(1)).

When an individual loses minimum essential coverage, if the plan selection is made on or before the date of the loss of coverage, NYSOH must ensure that the coverage effective date is on the first day of the month following the loss of coverage. If the plan selection is made after the date of the loss of coverage, NYSOH must ensure that coverage is effective with the regular effective dates or the first day of the following month (45 CFR § 155.420(b)(iv)).

Termination of Qualified Health Plan – During a SEP

NYSOH may initiate termination of an enrollee's enrollment in a QHP, and must permit a QHP issuer to terminate such coverage or enrollment, when the enrollee changes from one QHP to another during an annual open enrollment period or special enrollment period (45 CFR § 155.430(b)(2)(v)).

If an enrollee changes QHPs during an annual open enrollment or special enrollment period, the last day of coverage in an enrollee's prior QHP is the day before the effective date of coverage in their new QHP (45 CFR § 155.430(d)(6)).

Termination of a Qualified Health Plan

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)).

Appealable Issues

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your spouse's QHP enrollment ended as of September 30, 2017.

The record reflects that you were enrolled in Medicaid coverage as of July 1, 2016, and that coverage ended on June 30, 2017. Further, your spouse was enrolled in a silver-level Fidelis Care QHP as of March 1, 2017.

On July 6, 2017, you and your spouse reapplied for health insurance because your coverage ended on June 30, 2017, and you both were determined eligible for APTC and CSR. Further, on July 6, 2017, you and your spouse attempted to enroll in a bronze-level Fidelis Care QHP; however, you and your spouse were unable to because of a system defect.

When a qualified individual enrolls in a QHP after their minimum essential coverage has ended, the date in which the plan can take effect is either contingent on the day a person selects the plan for enrollment or the first day of the following month.

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If the system defect did not occur, your spouse would have selected the bronze-level Fidelis Care QHP on July 6, 2017. Since your Medicaid coverage had ended on June 30, 2017, your spouse's bronze-level Fidelis Care QHP would have been effectuated on the first day of the following month after July 6, 2017; that is August 1, 2017.

If an enrollee changes the QHP that they are enrolled in during an annual open enrollment period or special enrollment period, the last day of coverage in an enrollee's prior QHP is the day before the effective date of coverage in their new QHP.

The record supports that, if the system defect did not occur, your spouse would have been enrolled in a bronze-level Fidelis Care QHP as of August 1, 2017. Therefore, the silver-level Fidelis Care QHP would have ended as of July 31, 2017.

The record reflects that on September 12, 2017, you contacted NYSOH and your account was updated to reflect that you and your spouse were no longer applying for health insurance through NYSOH. Based on that update, your spouse's silver-level Fidelis Care QHP ended as of September 30, 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.

The record supports, that the continuation of your spouse's enrollment in the silver-level Fidelis Care QHP was the result of a technical error. As such, NYSOH must permit you to retroactively terminate enrollment due to the error.

Therefore, the September 13, 2017 disenrollment notice is MODIFIED to state that your spouse's silver-level Fidelis Care QHP ended as of July 31, 2017.

The second issue under review is whether you are eligible to be reimbursed for the July, August, and September 2017 health insurance premiums that were paid to the health insurance company.

NYSOH Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility

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determination for an exemption, (4) a failure to provide timely notice of an eligibility determination and (5) a denial of a special enrollment period.

The Appeals Unit does not have the authority to review whether an individual should be reimbursed for a premium paid to a health plan. We cannot reach the merits as to whether you are entitled to be reimbursed for that payment. Therefore, your request for reimbursement for the amount paid to the health insurance company for your coverage is DISMISSED as a non-appealable issue.

Fidelis Care may be able to help you with your request for reimbursement, if you have not already been assisted by them.

In addition, since your issue concerns a health insurer and/or payment, reimbursement, coverage, benefits, rates and premiums, you can contact NY Department of Financial Services at their Consumer Hotline at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30 PM); or locally to (212) 480-6400; or you can file a complaint at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>

Decision

The September 13, 2017 disenrollment notice is MODIFIED to state that your spouse's silver-level Fidelis Care QHP ended as of July 31, 2017.

Your request for reimbursement for the amount paid to the health insurance company for your coverage during the months of July, August, and September 2017 is DISMISSED as a non-appealable issue.

Effective Date of this Decision: November 9, 2017

How this Decision Affects Your Eligibility

Your spouse's silver-level Fidelis Care QHP ended as of July 31, 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.

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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
- By fax: 1-855-900-5557

Summary

The September 13, 2017 disenrollment notice is MODIFIED to state that your spouse's silver-level Fidelis Care QHP ended as of July 31, 2017.

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Your spouse's silver-level Fidelis Care QHP ended as of July 31, 2017.

Your request for reimbursement for the amount paid to the health insurance company for your coverage during the months of July, August, and September 2017 is DISMISSED as a non-appealable issue.

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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