



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

## Notice of Decision

Decision Date: December 1, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021992

[REDACTED]

[REDACTED]

On November 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 31, 2017 enrollment confirmation 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).

This page intentionally left blank.



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

## Decision

Decision Date: December 1, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021992

[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 you were enrolled in your Healthfirst qualified health plan from July 1, 2017 through July 31, 2017?

## Procedural History

On August 11, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid, effective July 1, 2016.

On August 15, 2016, NYSOH issued an enrollment notice confirming your enrollment in a Medicaid Managed Care plan effective September 1, 2016.

On May 4, 2017, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by June 15, 2017 or you might lose the financial assistance you were currently receiving.

On June 13, 2017, you updated your application for financial assistance.

On June 14, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective July 1, 2017. This notice also stated that you had been granted a

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).

special enrollment period and that you must confirm your health plan selection by August 29, 2017.

Also on June 14, 2017, NYSOH issued a notice of enrollment confirmation, based on your plan selection on June 13, 2017, stating that your enrollment in your Fidelis qualified health plan was effective July 1, 2017.

Additionally, on June 14, 2017, NYSOH issued a disenrollment notice stating that your enrollment in your Medicaid Managed Care plan would end on June 30, 2017. This was because you were no longer eligible for Medicaid.

On July 20, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a Healthfirst qualified health plan effective August 1, 2017.

Also on July 20, 2017, NYSOH issued a disenrollment notice stating that your enrollment in your Fidelis qualified health plan would end on August 31, 2017. This was because you had requested that you no longer be enrolled with this plan.

On July 22, 2017, NYSOH issued a notice advising you of changes to your insurance coverage. This notice stated that your coverage with your Fidelis qualified health plan had been cancelled as of July 1, 2017, which meant that you never had coverage with this plan.

On August 30, 2017, you updated your application for financial assistance. That day, NYSOH issued a preliminary eligibility determination stating that you were eligible for advanced payment of the premium tax credit of up to \$166.00 per month, effective October 1, 2017.

Also on August 30, 2017, you contacted the NYSOH Account Review Unit and appealed insofar as you were enrolled in your Healthfirst qualified health plan as of July 1, 2017 and not August 1, 2017.

On August 31, 2017, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in a Healthfirst qualified health plan, effective July 1, 2017.

On November 6, 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 at some point you applied for insurance and selected Fidelis for July 2017, however, you believe you were given misleading information regarding the Fidelis plan you selected, and contacted NYSOH in order to change plans.
- 2) You testified that you made one premium payment to Fidelis, but that this was eventually refunded to you in August 2017.
- 3) You testified that you used insurance for [REDACTED] you underwent in July 2017, and that you believe Fidelis paid for this service.
- 4) You testified that you requested to change to a Healthfirst plan and requested that this plan begin as of August 1, 2017.
- 5) You also testified that you had requested that your Healthfirst plan begin as of July 1, 2017, if your premium could be transferred.
- 6) During the hearing, you gave permission for the Hearing Officer to listen to recordings of phone calls you had with NYSOH.
- 7) On July 11, 2017, you placed a phone call to NYSOH. A review of the recording of that phone call reflects that you were calling regarding coverage for vision and dental. The NYSOH representative advised you that the plan you had selected did not cover vision and dental, and offered you the option of selecting a vision and dental only plan or changing to a different qualified health plan. You indicated that you wanted to change to a different qualified health plan. The NYSOH representative was unable to process this request and submitted an incident [REDACTED] on your behalf that day.
- 8) Notes within incident [REDACTED] indicate that on July 19, 2017, an NYSOH Account Review Unit representative placed a phone call to you and assisted you in enrolling into a Healthfirst qualified health plan. You requested at that time that your Fidelis qualified health plan be retroactively disenrolled as of July 1, 2017.
- 9) On July 19, 2017, you spoke with a different representative of the NYSOH Account Review Unit. A review of the recording of the phone call reflects that you were requesting to be reimbursed your July 2017 premium from Fidelis. The NYSOH Account Review Unit representative advised you that the only way to cancel your Fidelis qualified health plan for the month of July 2017 was to have your Healthfirst qualified health plan began as of July 1, 2017. You agreed and indicated that you would like your Healthfirst qualified health plan to begin as of July 1, 2017 and to be disenrolled from your Fidelis qualified health plan for the month of July 2017. As a result of this request, the representative submitted an incident

██████████ You advised the NYSOH Account Review Unit representative that you had an appointment for ██████████ scheduled for ██████████. The representative submitted another ██████████ indicate that you had an urgent medical need.

- 10) ██████████ indicates that on July 21, 2017 your account was updated to reflect that your coverage with your Fidelis qualified health plan was terminated as of July 1, 2017 and your coverage with your Healthfirst qualified health plan was effective as of July 1, 2017.
- 11) On July 22, 2017, NYSOH issued a notice advising you of changes to your insurance coverage. This notice stated that your coverage with your Fidelis qualified health plan had been cancelled as of July 1, 2017, which meant that you never had coverage with this plan.
- 12) On July 25, 2017, you placed a call to NYSOH. A review of the recording of that phone call reflects that you spoke to an NYSOH Account Review Unit representative. You were calling to inquire as to whether you could contact Fidelis to get reimbursement of your July 2017 premium. The NYSOH Account Review Unit representative advised you that your enrollment with Healthfirst was effective as of July 1, 2017 and that your Fidelis qualified health plan had been cancelled as of July 1, 2017.
- 13) On August 12, 2017, an NYSOH Account Review Unit representative placed a phone call to you. A review of the recording of that call reflects that the NYSOH Account Review Unit representative was following-up with you regarding the resolution of incident ██████████. The representative inquired if you were satisfied with the resolution. You indicated that you were all set, that you were just waiting on reimbursement from Fidelis, and that you had already spoken with Healthfirst regarding your premium payment.
- 14) On August 21, 2017, you placed a call to NYSOH. A review of the recording of that call reflects that you were calling to find out when your coverage with your Healthfirst qualified health plan began. The NYSOH representative informed you that your coverage with Healthfirst began on July 1, 2017.
- 15) On August 25, 2017, you placed a phone call to the NYSOH Account Review Unit. A review of the recording of that call reflects that you were calling regarding the start date of your Healthfirst qualified health plan. You informed the NYSOH Account Review Unit representative that you believed that your Healthfirst coverage should have begun as of August 1, 2017 and that you never requested that your coverage with Healthfirst begin as of July 1, 2017. As a result of this request, two incidents were created ██████████

16) Incident ██████████ indicates that on August 29, 2017, your request to have your Healthfirst qualified health plan begin on August 1, 2017 rather than July 1, 2017 was denied.

17) On August 30, 2017, you placed a phone call to the NYSOH Account Review Unit. A review of the recording of that call reflects that you were advised that your Healthfirst qualified health plan began as of July 1, 2017 and that your request to have coverage begin on August 1, 2017 was denied. The representative advised you regarding your appeal rights, and you filed an appeal that day.

18) You testified that you are seeking retroactive disenrollment from your Healthfirst qualified health plan from July 1, 2017 through July 31, 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 you were enrolled in your Healthfirst qualified health plan from July 1, 2017 through July 31, 2017.

On June 14, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost, effective July 1, 2017. You subsequently enrolled into a Fidelis qualified health plan.

On July 11, 2017, you requested to change the qualified health plan you were enrolled in.

On July 19, 2017, you enrolled into a Healthfirst qualified health plan. That day, you confirmed that you were seeking to be disenrolled from your Fidelis qualified health plan as of July 1, 2017 and enrollment into your Healthfirst qualified health plan as of July 1, 2017.

On July 21, 2017, NYSOH granted your request to be disenrolled from your Fidelis qualified health plan as of July 1, 2017 and enrolled into your Healthfirst qualified health plan as of July 1, 2017.



On July 25, 2017, NYSOH informed you had been disenrolled from your Fidelis qualified health plan as of July 1, 2017 and enrolled into your Healthfirst qualified health plan as of July 1, 2017.

You testified that you are seeking retroactive disenrollment from your Healthfirst qualified health plan from July 1, 2017 through July 31, 2017.

NYSOH must permit an enrollee to be retroactively disenrolled from their qualified health plan 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 qualified health plan without their knowledge or consent by a third party.

There is no indication in the record that your enrollment in a qualified health plan as confirmed in the August 31, 2017 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 your enrollment in a qualified health plan as confirmed in the August 31, 2017 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 qualified health plan.

The record reflects that on August 25, 2017 you contacted NYSOH and requested that you be disenrolled from your Healthfirst qualified health plan from July 1, 2017 through July 31, 2017 as you no longer wanted to remain enrolled for that month.

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.

Since you do not qualify to be retroactively disenrolled from your coverage and you did not provide reasonable notice to NYSOH, NYSOH properly determined that you were enrolled in your Healthfirst qualified health plan from July 1, 2017 through July 31, 2017.

Therefore, the August 31, 2017 enrollment confirmation notice is **AFFIRMED**.

## **Decision**

The August 31, 2017 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** December 1, 2017

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

Your enrollment in your Healthfirst qualified health plan was effective July 1, 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 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 31, 2017 enrollment confirmation notice is AFFIRMED.

Your enrollment in your Healthfirst qualified health plan was effective July 1, 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)**

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).

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 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).

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).