



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

## Notice of Decision

Decision Date: January 31, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022879

[REDACTED]

[REDACTED]

On December 19, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 28, 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: January 31, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022879



## 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 and your spouse's enrollment in your silver-level qualified health plan ended effective September 30, 2017?

## Procedural History

On March 7, 2017, NYSOH issued an eligibility determination notice stating in part, that you and your spouse were eligible receive up to \$554.00 in advance premium tax credit (APTC) and, if you enrolled in a silver-level qualified health plan (QHP), eligible to receive cost-sharing reductions, both effective April 1, 2017.

Also on March 7, 2017, NYSOH issued an enrollment notice confirming you and your spouse's enrollment in a silver-level QHP with a premium of \$353.13 per month after the application of \$554.00 in APTC, effective April 1, 2017.

On September 28, 2017, NYSOH issued a disenrollment notice indicating that coverage in you and your spouse's silver-level QHP would end effective September 30, 2017. This was because you asked to end your coverage on September 27, 2017.

Also on September 28, 2017, NYSOH issued a notice confirming your September 27, 2017 conversation with the Account Review Unit in which you requested an appeal of the date you and your spouse were disenrolled from your

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silver-level QHP. You requested a June 30, 2017 termination date instead of September 30, 2017.

On December 19, 2017, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. The record was developed during the hearing and held open until January 3, 2018 for submission of supporting documentation.

As of January 3, 2018, the Appeals Unit had not received any documents from you and none were viewable in your NYSOH account. Therefore, the record was closed that same day and this decision is based on the record as developed at the time of the hearing.

## **Findings of Fact**

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

- 1) You testified that you are seeking retroactive disenrollment for you and your spouse from your silver-level QHP as of June 30, 2017.
- 2) You testified that sometime in June 2017, you were injured at work and went on limited employment hours.
- 3) You testified that because of your limited hours your wages were reduced and you could not afford health insurance.
- 4) You testified that you called the health plan and they told you to call NYSOH.
- 5) You testified that you believe you called NYSOH around June 21 or 22, 2017 and asked to cancel your health insurance.
- 6) According to your NYSOH account on September 27, 2017 you contacted NYSOH to disenroll yourself and your spouse from your silver-level QHP.
- 7) According to your NYSOH account, coverage for you and your spouse in your silver-level QHP was terminated as of September 30, 2017.
- 8) The record was held open until January 3, 2018 to allow you time to submit proof of cell phone calls you may have made to NYSOH in June 2017. The record reflects that no such proof was submitted.
- 9) According to the notes of your September 27, 2017 conversation with the NYSOH Account Review Unit, a search of the call history by a NYSOH representative of your account did not reveal a record of any calls made in June 2017.

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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 NYSOH, and requests cancellation within 60 days of discovering of the enrollment.

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(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 and your spouse's enrollment in your silver-level QHP ended effective September 30, 2017.

On March 7, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a QHP with APTC in the amount of \$554.00 per month, effective April 1, 2017. You and your spouse were subsequently enrolled into a silver-level QHP as of April 1, 2017.

You testified that sometime in June 2017, you were injured at work and went on limited employment hours and your income was reduced. You testified that you could no longer afford health insurance and you called the health plan. The health plan told you to call NYSOH. You testified you called NYSOH around June 21 or 22, 2017 and asked to cancel your health insurance. The NYSOH Account Review Unit searched the call history of your account but could not find a record of any calls you made in June 2017 to NYSOH. The Hearing Officer held the record open until January 3, 2018 to allow you time to submit supporting documentary proof of your cell phone records that might indicate you called NYSOH sometime in June 2017. No such supporting documents were submitted by the January 3, 2018 deadline.

According to your NYSOH account, on September 27, 2017 you contacted NYSOH to disenroll yourself and your spouse from your silver-level QHP. The record reflects that NYSOH agreed to issue an early end date for your silver-level QHP. On September 28, 2017, NYSOH issued a disenrollment notice indicating you and your spouse would be disenrolled from your silver-level QHP effective September 30, 2017.

You testified that you are seeking retroactive disenrollment from your silver-level QHP for you and your spouse effective June 30, 2017.

NYSOH must permit an enrollee to be retroactively disenroll 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

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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 you and your spouse's enrollment in the silver-level QHP as confirmed in the March 7, 2017 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 the silver-level QHP as confirmed in the March 7, 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 your silver-level QHP to June 30, 2017.

The record reflects that on September 27, 2017 you contacted NYSOH and requested that you and your spouse be disenrolled from your silver-level QHP as you no longer wanted to remain enrolled.

Ordinarily, 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.

However, NYSOH agreed to terminate your insurance coverage with your silver-level QHP effective September 30, 2017, which is the last day of the month following your September 27, 2017 request.

Since you do not qualify to be retroactively disenrolled from your coverage and NYSOH disenrolled you and your spouse as of September 30, 2017, despite the fact you did not provide reasonable notice to NYSOH, the NYSOH Appeals Unit will not disturb NYSOH's determination that your and your spouse's disenrollment in your silver-level QHP was effective September 30, 2017. As such, there is no basis to backdate your and your spouse's disenrollment further to June 30, 2017.

Therefore, the September 28, 2017, disenrollment notice is AFFIRMED.

## **Decision**

The September 28, 2017, disenrollment notice is AFFIRMED.

**Effective Date of this Decision:** January 31, 2018

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).

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

This decision does not change your and your spouse's disenrollment date. Your and your spouse's enrollment in your silver-level QHP ended as of September 30, 2017.

## **If You Disagree with this Decision (Appeal Rights)**

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your appeal was decided, the 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

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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 28, 2017, disenrollment notice is AFFIRMED.

This decision does not change you and your spouse's disenrollment date. You and your spouse's enrollment in your silver-level QHP ended as of September 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 مجانًا.

### 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&etumi 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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