



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

## Notice of Decision

Decision Date: December 06, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022956

[REDACTED]

[REDACTED]

On November 29, 2017, you appeared by telephone at a hearing on your appeal of your enrollment start date in your qualified health plan and NY State of Health's September 30, 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: December 06, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022956

[REDACTED]

## Issues

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

Did NY State of Health properly determine that your enrollment in your qualified health plan was effective August 1, 2017?

Did NY State of Health properly determine that your enrollment in your qualified health plan ended effective October 31, 2017?

## Procedural History

On July 11, 2017, NY State of Health (NYSOH) received your application for financial assistance with health insurance.

On July 12, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective August 1, 2017.

Also on July 12, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a qualified health plan, effective September 1, 2017.

On September 30, 2017, NYSOH issued a disenrollment notice indicating that coverage in your qualified health plan would end effective October 31, 2017.

Also on September 30, 2017, you contacted the NYSOH Account Review Unit and appealed the date you were enrolled in your qualified health plan, and the date you were disenrolled from your qualified health plan, requesting your

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enrollment in your qualified health plan be from September 1, 2017 to September 30, 2017.

On November 29, 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 December 15, 2017 to allow you time to submit supporting documentation.

On November 29, 2017, NYSOH received a four-page fax from you containing the supporting documentation. This four-page fax was made part of the record as "Appellant's Exhibit #1," and the record was closed that same day.

## **Findings of Fact**

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

- 1) The record indicates that you initially applied for health insurance through NYSOH on July 11, 2017.
- 2) The record indicates that you were enrolled in a full cost qualified health plan, effective September 1, 2017.
- 3) The record indicates, on July 11, 2017, you spoke to NYSOH and requested that your qualified health coverage be backdated to August 1, 2017.
- 4) This backdate request was approved on July 25, 2017 and you were informed on July 27, 2017 at 8:42 a.m. that the backdate request had been approved [REDACTED].
- 5) The record indicates that you contacted NYSOH to seek a reversal of this backdate request on July 27, 2017 at 11:34 a.m. as you wanted your qualified health plan to start as of September 1, 2017 [REDACTED]  
[REDACTED]
- 6) You testified that when you applied on July 11, 2017, you were unsure as to when your third-party health insurance coverage would end.
- 7) You testified, and provided documentation to show, that you had health insurance coverage through a COBRA plan until August 31, 2017.
- 8) You testified, and provided documentation to show, that you became eligible for insurance through your employer as of October 1, 2017.

- 9) You testified that, on September 29, 2017, you contacted NYSOH to disenroll yourself from your qualified health plan through NYSOH.
- 10) You testified that you did not pay a premium to your qualified health plan for the month of August 2017 or October 2017, and you have not received any premium bills for those months.
- 11) You testified that you did pay your premium payment for the month of September 2017.
- 12) You testified that you did not use your qualified health plan in the months of August 2017 or October 2017.
- 13) You testified that you would like to be enrolled in your qualified health plan only for the month of September 2017.

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

## **Applicable Law and Regulations**

### Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

### 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 first issue under review is whether NYSOH properly determined that your enrollment in your qualified health plan started as of August 1, 2017.

The record indicates that you enrolled into a qualified health plan on July 11, 2017. This qualified health plan was effective September 1, 2017, as stated in the plan enrollment notice date July 12, 2017.

On July 11, 2017, you also spoke with NYSOH and requested a backdate of your qualified health plan to August 1, 2017. You testified that you requested this backdate because you thought your third-party health insurance ended as of July 31, 2017. This backdate request was approved on July 25, 2017. The record indicates that, on July 27, 2017, NYSOH contacted you at 8:42 a.m. to inform you that your backdate request had been approved. The record further indicates that you also contacted NYSOH on July 27, 2017 at 11:34 a.m. and informed them that you no longer needed the August 1, 2017 backdate. The record indicates that the request to cancel the backdate of your qualified health plan was denied.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month. Additionally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the first day to and including fifteenth day of a month goes into effect on the first day of the following month, unless a different start date is requested.

NYSOH approved your July 11, 2017 backdate request on July 25, 2017 and informed you of the approval on July 27, 2017, and changed your enrollment start date in your qualified health plan from September 1, 2017 to August 1, 2017. The record indicates that you informed NYSOH that you were no longer interested in the backdate of your qualified health plan less than three hours after NYSOH informed you that your backdate request had been approved because you learned your COBRA coverage did not end until August 31, 2017. It is also noted that you contacted NYSOH on July 27, 2017; which was before your qualified health plan would have taken effect on August 1, 2017. Furthermore, you requested a start date of your qualified health plan to be September 1, 2017 on July 27, 2017. Under the law, a plan that is selected after the fifteenth day of the month goes into effect on the first day of the second following month; which would have been September 1, 2017. Therefore, it is concluded, that NYSOH should have allowed you to change your start date back to September 1, 2017 on July 27, 2017.

Therefore, your qualified health plan enrollment should have started as of September 1, 2017, and your case is being RETURNED to NYSOH to change your enrollment start date in your qualified health plan from August 1, 2017 to September 1, 2017.

The second issue under review is whether NYSOH properly determined that your enrollment in your qualified health plan ended effective October 31, 2017.

On July 12, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost, effective August 1, 2017. You subsequently enrolled into a qualified health plan.

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).

On September 30, 2017, NYSOH issue a disenrollment notice indicating you would be disenrolled from your qualified health plan effective October 31, 2017. You testified that you are seeking retroactive disenrollment from your qualified health plan effective September 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 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, effective September 1, 2017, 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 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 as of September 30, 2017.

The record reflects that, on September 29, 2017, you contacted NYSOH and requested that you be disenrolled from your qualified health plan as you no longer wanted to remain enrolled.

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 October 31, 2017, which is the last day of the month following your request.

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 your disenrollment in your qualified health plan was effective October 31, 2017.

Therefore, the September 30, 2017 plan disenrollment notice is **AFFIRMED**.

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).



## **Decision**

Your enrollment in your qualified health plan should have started as of September 1, 2017.

Your case is RETURNED to NYSOH to change your enrollment start date in your qualified health plan from August 1, 2017 to September 1, 2017.

The September 30, 2017 plan disenrollment notice is AFFIRMED.

**Effective Date of this Decision:** December 06, 2017

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

Under the law, you should have been enrolled in your qualified health plan as of September 1, 2017.

Your case is being sent back to NYSOH to change your enrollment start date in your qualified health plan to September 1, 2017 and not August 1, 2017.

This decision does not change your disenrollment date. Your disenrollment in your qualified health plan ended as of October 31, 2017.

Your enrollment in your qualified health plan was from September 1, 2017 through October 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.

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 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 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**

You should have been enrolled in your qualified health plan as of September 1, 2017.

Your case is being sent back to NYSOH to indicate that your enrollment in your qualified health plan started as of September 1, 2017 and not August 1, 2017.

The September 30, 2017 plan disenrollment notice is AFFIRMED.

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).

Under the law, you should have been enrolled in your qualified health plan as of September 1, 2017.

Your case is being sent back to NYSOH to change your enrollment start date in your qualified health plan to September 1, 2017 and not August 1, 2017.

This decision does not change your disenrollment date. Your disenrollment in your qualified health plan ended as of October 31, 2017.

Your enrollment in your qualified health plan was from September 1, 2017 through October 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।

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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 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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