



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

### Notice of Decision

Decision Date: December 18, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023370

[REDACTED]

Dear [REDACTED]

On December 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 10, 2017 disenrollment and October 11, 2017 eligibility determination notices.

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 18, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023370



## Issues

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

Did NY State of Health (NYSOH) properly terminate your qualified health plan (QHP) for nonpayment of premium, effective August 31, 2017?

Did NYSOH properly determine that you did not qualify to enroll in a QHP outside of the open enrollment period, effective October 1, 2017?

## Procedural History

On January 31, 2017, NYSOH issued an eligibility determination notice, based on your January 30, 2017 application, stating that you were eligible to enroll in a full price QHP, effective March 1, 2017.

Also on January 31, 2017, NYSOH issued a plan enrollment notice confirming that you were enrolled in a QHP with a premium of \$367.04 per month, effective March 1, 2017. The notice also stated that you must pay the monthly premium to start and keep your coverage.

On September 5, 2017, NYSOH issued a disenrollment notice stating that your enrollment in your QHP was terminated, effective July 31, 2017, because you did not pay your insurance bill by the payment deadline.

According to your NYSOH account, on September 12, 2017, your QHP reinstated your coverage as of August 1, 2017.

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On September 13, 2017, NYSOH issued a plan enrollment notice confirming that you were enrolled in a QHP with a premium of \$367.04 per month, effective March 1, 2017. The notice also stated that you must pay the monthly premium to start and keep your coverage.

On October 10, 2017, NYSOH issued a disenrollment notice stating that your enrollment in your QHP was terminated, effective August 31, 2017, because you did not pay your insurance bill by the payment deadline.

On October 11, 2017, NYSOH issued an eligibility determination notice, based on your October 10, 2017 updated application, stating that you were eligible to enroll in a full price QHP, effective October 1, 2017. It further stated that you did not qualify to select a health plan outside of the open enrollment period for 2017.

On October 16, 2017, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination insofar as you were not eligible to enroll in a health plan outside of the open enrollment period.

On December 6, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and the record closed that day.

## **Findings of Fact**

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

- 1) You testified that your health plan contacted you in August 2017, to advise you that you needed to make an additional payment of your health insurance premium.
- 2) You testified that your payment, which you thought was for August 2017, had been applied to the month of July 2017. You further testified that you made the additional payment for August 2017.
- 3) According to your NYSOH account, you were initially disenrolled for non-payment effective July 31, 2017, then reinstated on September 12, 2017, with an effective date of August 1, 2017.
- 4) You testified that your health plan contacted you again and requested that you make an additional payment for September 2017.
- 5) Although you are not sure of the exact date, you testified that you reached out to your health plan in September 2017 or October 2017, but they refused to accept your payment.

- 6) You testified that you believe because your September 2017 premium payment was applied to your August 2017 premium bill you were disenrolled from your QHP.
- 7) According to your NYSOH account, you were disenrolled from your QHP for nonpayment of premium for a second time, effective August 31, 2017.
- 8) You testified that you did not realize you had lost your insurance coverage until you received the NYSOH notice stating the same. By then, it was too late for you to do anything about it and the health plan refused to reinstate your health coverage.
- 9) On October 11, 2017, you attempted to re-enroll in a QHP, but were unable to do so.
- 10) You testified that, since filing your application on January 30, 2017, there have been no other major changes to your household.

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

## **Applicable Law and Regulations**

### 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) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (4) 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)).

### Enrollment in a Qualified Health Plan

NYSOH must provide annual open enrollment periods during which time qualified individuals may enroll in a QHP and enrollees may change QHPs (45 CFR § 155.410(a)(1)).

For the benefit year beginning on January 1, 2017, the annual open enrollment period began on November 1, 2016, and extended through January 31, 2017 (45 CFR § 155.410(e)(2)).

## Special Enrollment Periods

After each open enrollment period ends, NYSOH provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP, and an enrollee may change their enrollment to another plan. This is generally permitted when a triggering events occur, such as:

- (1) The qualified individual or his or her dependent either:
  - (i) Loses minimum essential coverage.
  - (ii) Is enrolled in any non-calendar year group health plan or individual health insurance coverage, even if the qualified individual or his or her dependent has the option to renew such coverage.
  - (iii) Loses pregnancy-related coverage.
  - (iv) Loses medically needy coverage as described under section 1902(a)(10)(C) of the Social Security Act only once per calendar year.

(45 CFR § 155.420(d)(4)).

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to select a QHP (45 CFR § 155.420(c)(1)).

However, a loss of health insurance coverage such as that referenced above does not include,

“voluntary termination of coverage or other loss due to—

- (1) Failure to pay premiums on a timely basis, including COBRA premiums prior to expiration of COBRA coverage, or
- (2) Situations allowing for a rescission as specified in 45 CFR [§] 147.128” such as failure to comply with other requirements (45 CFR § 147.128(b))

## **Legal Analysis**

The first issue under review is whether NYSOH properly terminated your QHP for nonpayment of premium, effective August 31, 2017.

On January 31, 2017, you were enrolled in a QHP for the 2017 coverage year with a monthly premium of \$367.04, effective March 1, 2017.

According to your NYSOH account, you were initially disenrolled for nonpayment of premium as of July 31, 2017. However, your health plan reinstated you as of August 1, 2017.

You testified that you made a payment in August 2017 and in September 2017 to your health plan. You further testified that you believe that because your September 2017 premium payment was applied to your August 2017 premium bill you were disenrolled from coverage as of August 31, 2017.

On October 10, 2017, NYSOH issued a disenrollment notice stating that you were disenrolled from your health plan for nonpayment of the premium, effective August 31, 2017.

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

Since the Appeals Unit is not given the authority to review termination of enrollment due to nonpayment of premiums, we cannot reach the merits as to whether you were properly terminated from your health plan for nonpayment of premiums. Therefore, your appeal of the October 10, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

The second issue under review is whether NYSOH properly determined that you did not qualify to enroll in a QHP, effective October 1, 2017.

NYSOH provided an open enrollment period from November 1, 2016 until January 31, 2017. On October 10, 2017, you submitted a request to reenroll in a QHP.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period to enroll in, or change to another health plan offered in NYSOH. To qualify for a special enrollment period, a person must experience a triggering event.

Although you did lose health coverage because of the August 31, 2017 disenrollment, the loss of health insurance coverage in this case cannot be considered a triggering event for a special enrollment period. This is because your loss of health insurance coverage was a result of your nonpayment of

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premium, which NYSOH considers a voluntary action that caused your coverage to be terminated. As such, a special enrollment period cannot be granted on this basis.

You testified that there have been no other changes to your household in 2017.

Since the credible evidence of record indicates that, since the open enrollment period closed on January 31, 2017, you did not experience a triggering event that would qualify you for a special enrollment period as of the date of the hearing, the October 11, 2017 eligibility determination notice, to the extent it denied you a special enrollment period, was correct and is AFFIRMED.

Lastly, you expressed concern about the way your QHP applied your premium payments. As already discussed, the Appeals Unit does not have jurisdiction over payment issues. However, you may contact your health plan directly regarding this matter or for other health care coverage questions.

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**

Your appeal of the October 10, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

The October 11, 2017 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** December 18, 2017

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

You did not qualify for a special enrollment period as of October 11, 2017, nor at this time.

## **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.

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).



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 QHP s, 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**

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).

Your appeal of the October 10, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

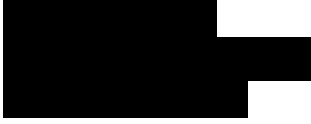
The October 11, 2017 eligibility determination notice is AFFIRMED.

You did not qualify for a special enrollment period as of October 11, 2017, nor at this time.

### **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।

## 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 b etumi ama wo obi a okyer e kasa a woka no ase ama wo kwa a wontua hwee.

### **(Urdu)**

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.