



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

Notice of Decision

Decision Date: December 28, 2017

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000023510

[REDACTED]

Dear [REDACTED],

On December 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 27, 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
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: December 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023510

[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 your enrollment in your qualified health plan ended effective October 31, 2017?

Procedural History

On September 20, 2017, NYSOH received your application for financial assistance with your health insurance. That day a preliminary eligibility determination was prepared finding you eligible for advance payments of the premium tax credit up to \$72.00 per month, effective November 1, 2017.

On September 21, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a silver-level qualified health plan with a premium responsibility of \$308.69 per month after the \$72.00 monthly tax credit was applied, effective October 1, 2017.

On September 26, 2017, NYSOH received your updated application.

On September 27, 2017, NYSOH issued a notice that the income information in your application did not match what NYSOH received from federal and state data sources. The notice directed you to provide proof of your current household income by October 11, 2017.

On September 27, 2017, NYSOH issued a disenrollment notice stating your silver-level qualified health plan with Fidelis Care would end October 31, 2017.

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On September 28, 2017, NYSOH issued a notice stating your enrollment in your Medicaid Managed Care plan would start November 1, 2017.

On September 30, 2017, NYSOH issued an eligibility determination notice based on your September 20, 2017 application stating you were eligible for advance payments of the premium tax credit up to \$72.00 per month, effective November 1, 2017.

On October 1, 2017, NYSOH issued an eligibility determination notice stating you were eligible for Medicaid, effective September 1, 2017.

On October 6, 2017, NYSOH issued a notice stating, effective October 6, 2017, you were no longer eligible for health insurance through NYSOH because NYSOH sent you information, including notices about your eligibility and health insurance coverage by U.S. mail to the mailing address provided in your account, but those notices were returned to NYSOH as undeliverable.

On October 6, 2017, NYSOH issued a notice stating your Medicaid Managed Care plan would end effective November 1, 2017, its proposed start date.

On October 16, 2017, NYSOH issued a notice stating you had updated your mailing address with NYSOH.

On October 16, 2017, NYSOH issued an eligibility determination notice stating you were eligible for Medicaid, effective October 1, 2017.

On October 16, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a Medicaid Managed Care plan, effective November 1, 2017.

On October 19, 2017, you contacted NYSOH's Account Review Unit and appealed the date you were disenrolled from your qualified health plan, requesting the disenrollment be made effective October 1, 2017.

On December 18, 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, on September 20, 2017, you enrolled in a silver-level qualified health plan on advice from your certified application counselor, who entered your income information on your initial application and explained your eligibility to you.

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- 2) According to your NYSOH account, your health insurance coverage became effective as of October 1, 2017.
- 3) You testified that you paid the October 2017 premium to your health plan for coverage that month.
- 4) You testified that your certified application counselor admitted to you that they entered your income information incorrectly in the September 20, 2017 application by adding income from a prior job. You testified that this job ended on or about [REDACTED].
- 5) You testified that your certified application counselor assisted you in resubmitting your application on September 27, 2017, using only income from your current employment and an annual income of \$14,146.08. NYSOH calculated this to be \$1,178.84 per month.
- 6) According to your NYSOH account, based on your September 27, 2017 updated application, you were found eligible for Medicaid.
- 7) You testified that you are seeking an earlier disenrollment date from your qualified health plan because you had Medicaid coverage in October 2017, while you were still enrolled in your qualified health plan.

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)).

Generally, if an enrollee is newly eligible for Medicaid, the last day of coverage for the qualified health plan is the day before the Medicaid coverage begins (45 CFR § 155.430(d)(2)(iv)). This is in part because individuals who have or will soon have minimum essential coverage are not eligible or no longer eligible for tax credits (26 USC § 5000A(f); Minimum essential coverage means Government sponsored programs, such as Medicare, Medicaid, CHIP, TRICARE, etc.).

NYSOH must permit an enrollee to retroactively terminate or cancel their enrollment in a qualified health plan if...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.

(45 CFR § 155.430(b)(2)(iv)(B)).

Legal Analysis

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

Based on your September 20, 2017 initial application for financial assistance with health insurance, you were enrolled into a silver-level qualified health plan with \$72.00 per month in tax credits and an enrollment start date of October 1, 2017.

You testified you were not aware that this eligibility was a result of your certified application counselor incorrectly including income from a prior employer. You further testified that you were not aware of this error when you selected a qualified health plan and were enrolled in that plan with an October 1, 2017 effective date.

Notwithstanding the element of error that is present in this case, the record reflects that on September 26, 2017, you submitted an updated application listing your current annual household income of \$14,146.08 at your current job, which NYSOH calculated to be \$1,178.84 per month. Since this monthly income amount was under the allowable monthly income limit for Medicaid, you were redetermined newly eligible for Medicaid, effective September 1, 2017, as stated in the September 27, 2017 eligibility determination notice. This fact is not in dispute.

Also on September 27, 2017 NYSOH issued a disenrollment notice stating that your enrollment in your qualified health would end effective October 31, 2017.

You testified that you are seeking retroactive disenrollment from your qualified health plan, effective October 1, 2017, because you had Medicaid coverage through NYSOH in October 2017.

Generally, when an enrollee is newly eligible for Medicaid, the last day of coverage through their qualified health plan is the day before the Medicaid coverage begins. This is in part because individuals who have or will soon have minimum essential coverage, such as Medicaid, are not eligible for tax credits.

Since you were determined newly eligible for Medicaid effective September 1, 2017, under the regulations and ordinary circumstances your qualified health plan should have terminated as of August 31, 2017. However, your coverage in your qualified health plan with tax credits was not to begin until October 1, 2017.

Notably, your case differs in that you were determined Medicaid eligible on September 27, 2017, with a September 1, 2017 start date, which is **before** your coverage in your qualified health plan was to begin as of October 1, 2017 (emphasis added). Applying the day before Medicaid coverage begins as near to its intent as possible, along with the rule that individuals receiving or about to receive minimum essential coverage are not eligible for tax credits, your enrollment in a qualified health plan with \$72.00 per month in tax credits should not have begun at all. As such, you should have been disenrolled from your qualified health plan as of October 1, 2017.

Therefore, NYSOH incorrectly determined that your plan terminated as of October 31, 2017, such that its September 27, 2017 disenrollment notice is MODIFIED to state your silver-level qualified health plan ended effective October 1, 2017.

Your case is RETURNED to NYSOH to disenroll you from your qualified health plan, effective October 1, 2017, and to notify you accordingly.

Decision

The September 27, 2017 disenrollment notice is MODIFIED to state your silver-level qualified health plan ended effective October 1, 2017.

Your case is RETURNED to NYSOH to disenroll you from your qualified health plan, effective October 1, 2017 and to notify you accordingly.

Effective Date of this Decision: December 28, 2017

How this Decision Affects Your Eligibility

Your enrollment in your qualified health plan is to end effective October 1, 2017.

Your case is being sent back to NYSOH to change your disenrollment date. NYSOH will notify you once this is done.

NYSOH will facilitate with the qualified health plan reimbursement of your monthly premium for October 2017.

The \$72.00 monthly tax credit you received toward your October 2017 premium will be reconciled at the time you file your 2017 federal tax return.

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 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

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- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The September 27, 2017 disenrollment notice is MODIFIED to state your silver-level qualified health plan ended effective October 1, 2017.

Your case is RETURNED to NYSOH to disenroll you from your qualified health plan, effective October 1, 2017 and to notify you accordingly.

Your enrollment in your qualified health plan is to end effective October 1, 2017.

Your case is being sent back to NYSOH to change your disenrollment date. NYSOH will notify you once this is done.

NYSOH will facilitate with the qualified health plan reimbursement of your monthly premium for October 2017.

The \$72.00 monthly tax credit you received toward your October 2017 premium will be reconciled at the time you file your 2017 federal tax return.

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 مجانًا.

বাংলা (Bengali)

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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 नि:शुल्क 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 नि:शुल्क 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 e tumi ama wo obi a okyer e 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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