



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

Notice of Decision

Decision Date: December 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023536

[REDACTED]

Dear [REDACTED]

On December 14, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 5, 2017 disenrollment notice, and October 14, 2017 and October 19, 2017 plan enrollment 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 20, 2017

NY State of Health Account ID: [REDACTED]
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Issues

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

Did NY State of Health properly terminate your qualified health plan for nonpayment of premium, effective July 31, 2017?

Did NY State of Health properly determine that your enrollment in a qualified health plan was effective no earlier than November 1, 2017?

Procedural History

On January 10, 2017, NY State of Health (NYSOH) issued an eligibility determination notice stating that you were eligible to enroll in a full priced qualified health plan (QHP), effective February 1, 2017.

Also on January 10, 2017, NYSOH issued a plan enrollment notice confirming that you were enrolled in a QHP with a premium of \$481.20 per month, effective February 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.

On September 7, 2017 and September 9, 2017, NYSOH issued eligibility determination notices, based on your September 6, 2017 and September 8, 2017 updated applications. Both notices stated that you may be able to enroll in a full

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price QHP, effective October 1, 2017, if you qualify for a special enrollment period.

According to your NYSOH account, you updated your address in your application and requested a special enrollment period on September 8, 2017 and on October 13, 2017.

On October 14, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in a full price QHP, effective November 1, 2017.

Also on October 14, 2017, NYSOH issued a plan enrollment notice confirming that you were enrolled in a QHP with a premium of \$456.46 per month, effective November 1, 2017. The notice also stated that you must pay the monthly premium to start and keep your coverage.

According to your NYSOH account, your request for a backdate was granted on October 16, 2017 and your complaint for a special enrollment period was closed as it was resolved.

On October 19, 2017, NYSOH issued a plan enrollment notice confirming that you were enrolled in a QHP with a premium of \$456.46 per month, effective October 1, 2017. The notice also stated that you must pay the monthly premium to start and keep your coverage.

Also on October 19, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your QHP insofar as it began on October 1, 2017, and not on August 1, 2017.

On December 14, 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) According to your NYSOH account and your testimony, you receive your notices from NYSOH via regular mail.
- 2) You testified that your August 2017 payment, which was supposed to be paid by your employer, had not been paid. You further testified that this was an oversight by your employer and that the organization you work for is more than willing to cover your premiums for August 2017 and September 2017. You further testified that your health plan never

contacted you to advise you that you needed to make an additional payment of your health insurance premium in August 2017.

- 3) According to your NYSOH account, you were disenrolled for nonpayment of premium, effective July 31, 2017.
- 4) You testified that you never received NYSOH's September 5, 2017 disenrollment notice. You realized you were disenrolled from your health plan when you went to fill a prescription at the pharmacist and they advised you the same.
- 5) You testified that you have contacted your health plan numerous times to seek reinstatement but they refuse to reinstate you and have advised you to contact NYSOH.
- 6) According to your NYSOH account, you attempted to re-enroll in a QHP on September 6, 2017 and September 8, 2017, but were unable to do so until October 13, 2017, when you updated your account once again and were granted a special enrollment period.
- 7) According to Incident [REDACTED], dated October 16, 2017, your complaint requesting a special enrollment period was closed because it was considered by NYSOH to be resolved.
- 8) According to the events tab in your NYSOH account, on October 18, 2017, your QHP effective date was backdated to October 1, 2017.
- 9) You testified that you moved from [REDACTED] to [REDACTED] on [REDACTED]. You further testified that you believe that because of this move, the start date of your qualified health plan should have been backdated to August 1, 2017 and not October 1, 2017.
- 10) You testified that you are seeking to have your qualified health plan to be effective August 1, 2017 because you have unpaid medical bills.

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,

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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)).

Qualified Health Plan – Effective Date

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)).

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.

(2)(i) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care, or through a child support order or other court order.

(7) The qualified individual or enrollee, or his or her dependent, gains access to new qualified health plan as a result of a permanent move and either—

(i) Had minimum essential coverage for one or more days during the 60 days preceding the date of the permanent move, or

(ii) Was living outside of the United States or in a United States territory at the time of the permanent move;

(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 July 31, 2017.

On January 10, 2017, you were enrolled in a QHP for the 2017 coverage year with a monthly premium of \$481.20, effective February 1, 2017.

You testified that your August 2017 payment, which was supposed to be paid by your employer, had not been paid, which resulted in you being disenrolled from

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your QHP as of July 31, 2017, due to nonpayment of premium. You further testified that your health plan failed to give you any notice that the premium had not been paid.

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 September 5, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

The second issue under review is whether NYSOH properly determined that your enrollment in a QHP was effective no earlier than November 1, 2017.

You testified that you did not receive any notice from NYSOH telling you that you were disenrolled from your health plan. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address after February 2017 were returned as undeliverable.

Therefore, it is concluded that NYSOH properly notified you of your termination from your health plan and that you would need to update your account to re-enroll in health coverage.

On October 13, 2017, you updated the information in your NYSOH account and selected a QHP because you were granted a special enrollment period.

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 an including the fifteenth day of a month goes into effect on the first day of the following month.

Since you selected a QHP for yourself on October 13, 2017, your enrollment in that plan properly took effect on the first day of the month following October 2017; that is, on November 1, 2017.

Therefore, NYSOH's October 14, 2017 eligibility determination notice and plan enrollment notices properly began your enrollment in your QHP on November 1, 2017.

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Although you lost health coverage because of the July 31, 2017 disenrollment, and had no minimum essential coverage from August 1, 2017 through October 31, 2017, there is no mechanism under the law nor legal basis by which NYSOH would be required to grant you a backdate of your health insurance coverage.

Nonetheless, according to your NYSOH account, you were granted a backdate of your enrollment start date to October 1, 2017. As such, the October 14, 2017 plan enrollment notice is rendered MOOT by the October 19, 2017 plan enrollment notice, which will not be disturbed.

Decision

Your appeal of the September 5, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

The October 14, 2017 plan enrollment notice is MOOT.

The October 19, 2017 plan enrollment notice will not be disturbed.

Effective Date of this Decision: December 20, 2017

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

Your enrollment in your QHP began as of October 1, 2017.

You did not have health coverage through NYSOH during the months of August 2017 and September 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.

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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

Your appeal of the September 5, 2017 disenrollment notice is **DISMISSED** as a non-appealable issue.

The October 14, 2017 plan enrollment notice is **MOOT**.

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).

The October 19, 2017 plan enrollment notice will not be disturbed.

This decision does not change your eligibility.

Your enrollment in your QHP began as of October 1, 2017.

You did not have health coverage through NYSOH during the months of August 2017 and September 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।

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.