



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

Notice of Decision

Decision Date: January 24, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024285

[REDACTED]

[REDACTED]

On January 8, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 7, 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 24, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024285

[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 (QHP) ended effective November 30, 2017?

Procedural History

On May 25, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$224.00 per month in advance payments of the premium tax credit (APTC), and eligible to receive cost-sharing reductions if you enrolled in a silver-level QHP, both effective July 1, 2017.

On May 31, 2017, NYSOH issued an enrollment notice confirming your enrollment in a Healthfirst silver level QHP, with a monthly premium of \$229.55 after the application of your APTC, beginning July 1, 2017.

On October 24, 2017, NYSOH issued a renewal notice stating that it was time to renew your application for health insurance for 2018. The notice stated that, based on information from federal and state data sources, NYSOH could not determine whether you would qualify for financial assistance with paying for your health insurance in 2018. The notice directed you to update your application between November 16, 2017 and December 15, 2017, or the financial assistance you were receiving could end.

On October 30, 2017, you updated your NYSOH account.

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On October 31, 2017, NYSOH issued a notice of eligibility determination stating that, based on your October 30, 2017 application, you were newly eligible to purchase a QHP at full cost, effective November 1, 2017, and that you no longer qualified for APTC or cost-sharing reductions as of October 31, 2017.

Also, on October 31, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in your Healthfirst silver level QHP with a monthly premium of \$435.55.

On November 6, 2017, you updated your enrollment information.

On November 7, 2017, NYSOH issued notice stating that you were disenrolled from your Healthfirst silver level QHP, effective November 30, 2017. This was because you requested to end your coverage on November 6, 2017.

Also, on November 7, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a Healthfirst catastrophic plan, with a monthly premium of \$237.49, beginning December 1, 2017.

On November 9, 2017, your NYSOH account was updated.

On November 10, 2017, NYSOH issued a discontinuance notice, stating that you were no longer eligible to enroll in coverage through NYSOH because you no longer wanted to receive coverage. The notice stated that your eligibility ended as of December 1, 2017.

Also, on November 10, 2017, NYSOH issued a disenrollment notice, stating that your enrollment in your Healthfirst catastrophic plan was ending, effective December 1, 2017, because you were no longer eligible to enroll in coverage through NYSOH.

On November 13, 2017, you spoke with NYSOH's Account Review Unit and appealed the date you were disenrolled from your silver level QHP, requesting the disenrollment be made effective October 31, 2017.

On November 15, 2017, you updated your NYSOH account.

On November 16, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in a full cost QHP, effective December 1, 2017. The notice advised you to select a plan for enrollment by December 31, 2017.

On December 11, 2017, you updated your NYSOH account.

On December 12, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a QHP at full cost, effective January 1, 2018.

Also, on December 12, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in a Healthfirst catastrophic plan with a monthly premium of \$268.02, beginning January 1, 2018.

On January 8, 2018, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. During the hearing, you clarified that you were also seeking to be disenrolled from coverage for the month of December 2017, if you had been enrolled in coverage for that month. 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 you updated your NYSOH application on October 30, 2017 in response to the renewal notice that you received.
- 2) You testified that you realized that you completed your renewal too early, and that this resulted in the loss of your tax credit as of November 1, 2017.
- 3) You testified that you received a notice in the mail after you updated your application stating that you were going to be charged the full premium for your November 2017 coverage.
- 4) You testified that, at that point, you decided to change your coverage to a cheaper plan.
- 5) Your NYSOH account reflects that you updated your enrollment on November 6, 2017, and changed your plan from a silver plan to a catastrophic plan.
- 6) Your NYSOH account reflects that NYSOH issued a disenrollment notice on November 7, 2017 stating that you were disenrolled from your silver QHP as of November 30, 2017.
- 7) You testified that you called NYSOH to try to cancel your November 2017 enrollment, and the person you spoke with cancelled your December 2017 enrollment instead.
- 8) Information in NYSOH's system indicates that you requested to be reenrolled in coverage for December 2017 after the NYSOH agent you

spoke with on November 9, 2017 cancelled your December 2017 coverage.

- 9) NYSOH's system reflects that you were granted a special enrollment period in a notice dated November 16, 2017, indicating that you had until December 31, 2017 to enroll in a health plan for the month of December 2017.
- 10) NYSOH's system does not contain any record of a December 2017 plan enrollment after you were disenrolled on November 9, 2017.
- 11) You testified that you did not use your coverage in November or December 2017.
- 12) You testified that you paid the full \$453.55 premium for the month of November 2017.
- 13) You testified that you do not believe you paid any premium for December 2017, but that you would have to check your bank account to be sure, because you have your premiums automatically deducted.
- 14) You testified that you are seeking retroactive disenrollment from your QHP for the month of November 2017, and for December 2017, if applicable.

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 QHP, with appropriate notice to NYSOH or the QHP (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 QHP issuer and the enrollee agree to such a date

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(45 CFR § 155.430(d)(2)(i)-(iii)).

NYSOH must permit an enrollee to retroactively terminate or cancel their enrollment in a QHP 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 QHP 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 QHP 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 QHP to terminate an individual's coverage: (1) if the enrollee is no longer eligible for coverage or (2) for non-payment of the premiums by the enrollee (45 CFR § 155.430(b)(2)(i)-(ii)).

Redetermination During a Benefit Year

When a redetermination is issued because of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)). When a change in information results in a decrease in the amount of APTC, and the notice implementing that change is issued after the 15th of the month, the decrease must go into effect the first day of the second following month (45 CFR § 155.330(f)(3)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your enrollment in your silver level QHP ended as of November 30, 2017.

On May 25, 2017 NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$224.00 per month in APTC. You subsequently enrolled into a silver level QHP with Healthfirst, with a monthly premium of \$229.55, after the application of your APTC.

On October 24, 2017, NYSOH issued a renewal notice stating that it was time to renew your application for health insurance for 2018. You testified that you updated your application in response to this renewal, and your NYSOH account confirms that you updated your application for financial assistance on October 30, 2017. As a result, you were found newly eligible to purchase a QHP at full cost, and you were found to be no longer eligible for APTC, as of November 1, 2017. Pursuant to this, NYSOH issued an enrollment confirmation notice on October 31, 2017 informing you that your new monthly premium for your silver level QHP would be \$453.55.

You testified that, when you saw that you would no longer be receiving a tax credit, you changed your enrollment to a catastrophic plan, and your NYSOH account reflects that an enrollment confirmation notice was issued on November 7, 2017, confirming your enrollment in a Healthfirst catastrophic plan, beginning December 1, 2017. That same day, NYSOH issue a disenrollment notice indicating you would be disenrolled from your silver level QHP, effective November 30, 2017.

You testified, and your NYSOH account confirms, that you contacted NYSOH to request disenrollment from your silver level QHP for the month of November 2017 on November 9, 2017, but that the NYSOH agent you spoke with disenrolled you from your December coverage instead. You testified that you are seeking retroactive disenrollment from your silver level QHP effective October 31, 2017

NYSOH must permit an enrollee to be retroactively disenroll from their QHP 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 QHP, as confirmed in the May 31, 2017 enrollment notice was unintentional, inadvertent, or

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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 a QHP, as confirmed in the May 31, 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.

The record reflects that on November 6, 2017, you contacted NYSOH and requested that you be disenrolled from your QHP for the month of November, as you no longer wanted to remain enrolled.

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.

NYSOH terminated your insurance coverage with your QHP effective November 30, 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 QHP was effective November 30, 2017.

Therefore, the November 7, 2017 disenrollment notice is AFFIRMED.

However, when an individual changes information in their application after the 15th of any month, NYSOH will make the redetermination that results from the change effective the first day of the second following month. When that redetermination includes a decrease in APTC, that decrease must be implemented the first day of the second month following the change.

You updated your application for financial assistance on October 30, 2017. That update resulted in the loss of your \$224.00 monthly APTC. Because this update was made after the 15th of the month, and it resulted in a reduction in your APTC, that change should have been made effective December 1, 2017, not November 1, 2017.

Therefore, the October 31, 2017 notice of eligibility determination is MODIFIED to state that, based on your application update on October 30, 2017, you were newly eligible to purchase a QHP at full cost, effective December 1, 2017, and your APTC would end as of November 30, 2017.

Your case is RETURNED to NYSOH to reinstate your \$224.00 APTC for the month of November 2017, so that you may be reimbursed for that portion of your November 2017 premium payment that should have been covered by your APTC.

Finally, you testified, and your NYSOH account reflects, that when you called NYSOH on November 9, 2017 to request disenrollment from your QHP for the month of November 2017, the NYSOH agent you spoke to erroneously updated your application to state that you no longer wanted coverage through NYSOH, which resulted in your disenrollment from your catastrophic plan for December 2017. You contacted NYSOH to ask that you be reenrolled for December 2017, and on November 16, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in a full cost QHP, effective December 1, 2017, and that you had until December 31, 2017 to select a health plan for enrollment.

You testified that, since you never were able to use your coverage in December 2017, you want to be disenrolled from coverage in that month. However, your NYSOH account does not reflect that you were ever re-enrolled into coverage for December 2017, and does not reflect any coverage for that month. Therefore, there is no need to address your request, as there was no coverage in place during the month of December 2017.

Decision

The November 7, 2017 disenrollment notice is AFFIRMED.

The October 31, 2017 eligibility determination notice is MODIFIED to state that you were newly eligible to purchase a QHP at full cost, effective December 1, 2017, and that your eligibility for APTC ended as of November 30, 2017.

Your case is RETURNED to NYSOH to reinstate your \$224.00 APTC for the month of November 2017, so that you may be reimbursed for that portion of the premium payment which should have been covered by your APTC.

Effective Date of this Decision: January 24, 2018

How this Decision Affects Your Eligibility

This decision does not change your disenrollment date. Your enrollment in your silver level QHP ended November 30, 2017.

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).

However, your eligibility for APTC should also have ended as of November 30, 2017, and not as of October 31, 2017.

Your case is being sent back to NYSOH to reinstate your APTC for the month of November 2017 so that you can be reimbursed for that portion of your November premium payment that should have been covered by your APTC.

You may be required to submit proof of your November 2017 premium payment to NYSOH.

Your request for disenrollment from coverage for the month of December 2017 is not considered here, as your NYSOH account does not show that you were enrolled in coverage during the month of December 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 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 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 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 November 7, 2017 disenrollment notice is **AFFIRMED**.

The October 31, 2017 eligibility determination notice is **MODIFIED** to state that you were newly eligible to purchase a QHP at full cost, effective December 1, 2017, and that your eligibility for APTC ended as of November 30, 2017.

Your case is **RETURNED** to NYSOH to reinstate your \$224.00 APTC for the month of November 2017, so that you may be reimbursed for that portion of the premium payment which should have been covered by your APTC.

This decision does not change your disenrollment date. Your enrollment in your silver level QHP ended November 30, 2017.

However, your eligibility for APTC should also have ended as of November 30, 2017, and not as of October 31, 2017.

Your case is being sent back to NYSOH to reinstate your APTC for the month of November 2017 so that you can be reimbursed for that portion of your November premium payment that should have been covered by your APTC.

You may be required to submit proof of your November 2017 premium payment to NYSOH.

Your request for disenrollment from coverage for the month of December 2017 is not considered here, as your NYSOH account does not show that you were enrolled in coverage during the month of December 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 okyerε 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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