



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

## Notice of Decision

Decision Date: February 27, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024609

[REDACTED]

On January 11, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 17, 2017 disenrollment notice, November 17, eligibility determination notice and November 18, 2017 enrollment confirmation 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: February 27, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024609

[REDACTED]

## Issues

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

Did NY State of Health (NYSOH) properly determine that your enrollment in your Medicaid Managed Care plan ended effective November 30, 2017?

Did NYSOH properly determine that your enrollment in a qualified health plan was effective no earlier than January 1, 2018?

## Procedural History

On February 28, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid effective February 1, 2017 and you were subsequently enrolled in a Medicaid Managed Care (MMC) plan with an enrollment start date of April 1, 2017.

On November 16, 2017 you updated your NYSOH account and submitted a non-financial assistance application for health insurance.

On November 17, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost, effective January 1, 2018. That notice also stated that you no longer qualified for Medicaid through NYSOH as of December 31, 2017.

Also on November 17, 2017, NYSOH issued an enrollment notice confirming your enrollment in a platinum-level qualified health plan effective January 1, 2018.

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On November 18, 2017, NYSOH issued a disenrollment notice indicating that coverage in your MMC plan would end effective November 30, 2017.

On November 20, 2017, you contacted the NYSOH Account Review Unit and appealed insofar as you were disenrolled from your MMC plan at the end of November 2017 and your qualified health plan did not start until January 1, 2018 resulting in a gap of health insurance for the month of December 2017.

On January 11, 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) According to your NYSOH account and your testimony, you were determined eligible for Medicaid effective February 1, 2017 and you were enrolled in a MMC plan with a plan start date of April 1, 2017.
- 2) According to your NYSOH account, on November 16, 2017, you contacted NYSOH and requested to end your Medicaid coverage and submitted a non-financial application to purchase a qualified health plan.
- 3) According to your NYSOH account, on November 17, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost, effective January 1, 2018. That notice also stated that you no longer qualified for Medicaid through NYSOH as of December 31, 2017.
- 4) According to your NYSOH account, on November 17, 2017 NYSOH issued an enrollment notice stating that your enrollment in a platinum-level qualified health plan would start January 1, 2018.
- 5) According to your NYSOH account, on November 18, 2017, NYSOH issued a disenrollment notice stating that your coverage in your MMC plan would end on November 30, 2017.
- 6) A review of the NYSOH notes in your account indicate that the following work instructions should be followed if an account holder calls to cancel their Medicaid coverage; "If it is AFTER the 15th of the month, their current coverage and plan enrollment will terminate at the end of the current month and they will have a month-gap before their enrollment in a full-pay qualified health plan begins. If they do not want a gap, click No

and inform them they must call back within the first 2 weeks of the next month to update their application.”

- 7) A review of the call recording of November 16, 2017 indicates that the NYSOH customer service representative did not inform you that your Medicaid coverage would end at the end of November 2017 and that you would have a gap of health insurance for the month of December 2017. The recording indicates that you were not advised to call back before the 15<sup>th</sup> of the next month to make the plan changes so as to avoid a gap in health insurance coverage.
- 8) You testified that you did not incur any medical costs in the month of December 2017, but that you are concerned about a tax penalty for not having health insurance.

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)).

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)).

### 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

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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)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your enrollment in your MMC plan ended effective November 30, 2017.

The record shows that you were determined eligible for Medicaid effective February 1, 2017 and were subsequently enrolled in a MMC plan with a plan start date of April 1, 2017.

On November 16, 2017 you contacted NYSOH and requested to end your Medicaid coverage and submitted a non-financial application for health insurance. During the November 16, 2017 telephone conversation with the NYSOH customer service representative you were told that your platinum-level QHP would start on January 1, 2018. You were not informed during that conversation that your MMC plan would terminate at the end of November 2017. NYSOH work instructions for this situation indicate that the NYSOH customer service representative should have informed you your MMC plan would end at the end of that month and that you would have a resulting gap of health insurance coverage for the month of December 2017. You should have been informed that if you did not want a gap in health insurance coverage, you should hold off on making these changes and to call back before the 15<sup>th</sup> of the following month.

Also, the November 17, 2017, eligibility determination notice stated you were newly eligible to purchase a qualified health plan at full cost, effective January 1, 2018. That notice also stated that you no longer qualified for Medicaid through NYSOH as of December 31, 2017. A reasonable interpretation of this notice is that your Medicaid coverage would continue until the end of December 2017 and that your qualified health plan would start on January 1, 2018.

However, NYSOH's November 18, 2017 disenrollment notice terminated your insurance coverage with your MMC plan effective November 30, 2017, which is the last day of the month following your November 16, 2017 request.

In this case, the NYSOH customer service representative did not follow the proscribed procedures when you called on November 16, 2017 to request the end of your Medicaid coverage and enroll in a full pay qualified health plan. Had you been properly advised, it is reasonable to assume that you would not have

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wanted a gap in your health insurance coverage and would have delayed making the changes in your account until the beginning of December 2017.

Therefore, NYSOH's November 18, 2017, disenrollment notice indicating that coverage in your MMC plan would end effective November 30, 2017 is MODIFIED to state that your enrollment in your MMC plan would end December 31, 2017.

Your case is RETURNED to NYSOH to reinstate you in your MMC plan for the month of December 2017 and to notify you accordingly.

The second issue under review is whether NYSOH properly determine that your enrollment in your platinum-level qualified health plan was effective no earlier than January 1, 2018.

The record shows that on November 16, 2017 you updated the information in your NYSOH account and submitted a request to enroll in a platinum-level qualified health plan. On November 17, 2017, NYSOH issued an enrollment confirmation notice stating that your enrollment in your qualified health plan was effective January 1, 2018.

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. 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 after the fifteenth day of a month goes into effect on the first day of the second following month.

Since you selected your platinum-level qualified health plan on November 16, 2017, it properly took effect the first day of the second month following November 2017; that is, on January 1, 2018.

Therefore, NYSOH's November 17, 2017, eligibility determination notice and enrollment confirmation notice are AFFIRMED because they properly began your enrollment in your qualified health plan on January 1, 2018.

## **Decision**

The November 17, 2017 eligibility determination notice is AFFIRMED.

The November 17, 2017 enrollment confirmation notice is AFFIRMED.

The November 18, 2017 disenrollment notice indicating that coverage in your MMC plan would end effective November 30, 2017 is MODIFIED to state that your enrollment in your MMC plan would end December 31, 2017.

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Your case is RETURNED to NYSOH to reinstate you in your MMC plan for the month of December 2017 and to notify you accordingly.

**Effective Date of this Decision:** February 27, 2018

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

This decision changes your MMC disenrollment date.

You should not have been disenrolled from your MMC plan on November 30, 2017.

You should have been enrolled in your MMC plan for the month of December 2017.

Your case is RETURNED to NYSOH to reinstate you in your MMC plan for the month of December 2017.

Your platinum-level qualified health plan properly took effect on January 1, 2018.

### **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:

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).



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**

The November 17, 2017 eligibility determination notice is **AFFIRMED**.

The November 17, 2017 enrollment confirmation notice is **AFFIRMED**.

The November 18, 2017 disenrollment notice indicating that coverage in your MMC plan would end effective November 30, 2017 is **MODIFIED** to state that your enrollment in your MMC plan would end December 31, 2017.

Your case is **RETURNED** to NYSOH to reinstate you in your MMC plan for the month of December 2017 and to notify you accordingly.

This decision changes your MMC disenrollment date.

You should not have been disenrolled from your MMC plan on November 30, 2017.

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You should have been enrolled in your MMC plan for the month of December 2017.

Your case is RETURNED to NYSOH to reinstate you in your MMC plan for the month of December 2017.

Your platinum-level qualified health plan properly took effect on January 1, 2018.

### **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&etumi 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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