



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

## Notice of Decision

Decision Date: February 2, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024869

[REDACTED]

[REDACTED]

On January 17, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 28, 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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DEPARTMENT OF HEALTH  
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Albany, NY 12211

## Decision

Decision Date: February 2, 2018

NY State of Health Account [REDACTED]  
Appeal Identification Number: AP000000024869

[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that you and your child's enrollment in your silver-level qualified health plan ended effective January 1, 2018?

## Procedural History

On October 11, 2017, NY State of Health (NYSOH) issued an eligibility determination notice, based on your October 10, 2017 application, stating that you and your child were eligible to share in up to \$590.00 per month in advanced premium tax credits (APTC) and eligible for cost-sharing reductions if you enrolled in a silver-level qualified health plan, effective November 1, 2017.

Also on October 11, 2017, NYSOH issued a plan enrollment notice confirming your and your child's enrollment in a silver-level qualified health plan with the application of your APTC, both effective November 1, 2017.

On November 27, 2017, you contacted NYSOH and requested to be disenrolled from your silver-level qualified health plan as of November 1, 2017. As a result, your and your child's enrollment in a silver-level qualified health plan was terminated, effective December 31, 2017.

Also on November 27, 2017, you spoke to NYSOH's Account Review Unit and appealed the date you and your child were disenrolled from your silver-level

qualified health plan, insofar as your and your child's enrollment in your silver-level qualified health plan did not end on November 1, 2017.

On November 28, 2017, NYSOH issued a plan disenrollment notice confirming your and your child's disenrollment from your silver-level qualified health plan effective January 1, 2018.

On January 17, 2018, 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 enrolled yourself and your child into a silver-level qualified health plan on October 10, 2017. This enrollment was effective November 1, 2017.
- 2) You testified that you enrolled into the plan after seeking assistance from an application counselor.
- 3) You testified that, after speaking with the application counselor, you enrolled yourself and your child into a silver-level qualified health plan because you were told that it would be the cheapest plan available.
- 4) You testified that, shortly after enrolling yourself and your child into the plan and paying the first month's premium, you realized that you did not receive a welcome packet or a health insurance card from the qualified health plan and you became concerned.
- 5) You testified that you contacted the qualified health plan multiple times throughout November 2017, to request a health insurance card and you were told that you should receive it soon.
- 6) You testified that you never received the welcome packet or a health insurance card and, on November 27, 2017, you contacted NYSOH to disenroll yourself and your child from the plan.
- 7) According to your NYSOH account, on November 27, 2017 you contacted NYSOH and you and your child were disenrolled from your silver-level qualified health plan effective December 31, 2017.

- 8) On November 28, 2017, NYSOH issued a plan disenrollment notice stating that your and your child's enrollment in your silver-level qualified health plan terminated effective January 1, 2018.
- 9) You testified that you also contacted your qualified health plan on or around November 27, 2017, and you were informed by the qualified health plan representative that although he can see on his end that you requested a card, he could not see that a card was ever mailed to you.
- 10) You testified that, after speaking with the qualified health plan representative, you were told that he was sending your account to the financial department with your complaint and that you would hear back from that department within five to six weeks.
- 11) You testified that you have not heard back from your qualified health plan nor have you followed up with them since this complaint was filed.
- 12) You testified that you would like yourself and your child to be disenrolled from your qualified health plan as of November 1, 2017 because you never received a health insurance card and did not have access to your health insurance benefits.
- 13) You testified that you paid a premium to your and your child's qualified health plan for the month of November 2017, but that you did not pay your premium for the month of December 2017.
- 14) You testified that you and your child never used your qualified health plan in the months of November 2017 or December 2017.

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);

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- 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)).

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

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you and your child's enrollment in your silver level qualified health plan ended effective January 1, 2018.

On October 11, 2017, NYSOH issued an eligibility determination notice stating that you and your child were eligible for APTC and cost-sharing reductions, effective November 1, 2017. You enrolled yourself and your child into a silver-

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level qualified health plan that same day, with a November 1, 2017 enrollment start date.

You testified that you paid the qualified health plan your first premium payment for the month of November 2017, but that you never received a welcome packet or a health insurance card in the mail and you became concerned. You testified that you contacted your qualified health plan multiple times throughout November 2017, to request a health insurance card and you were told multiple times that you should receive it in the mail shortly. However, you testified that when you did not receive the card by mid-November 2017, that you contacted NYSOH. You testified, and the record indicates, that the first time you contacted NYSOH to request that you and your child be disenrolled from your silver-level qualified health plan was on November 27, 2017.

On November 28, 2017, NYSOH issue a disenrollment notice indicating you and your child would be disenrolled from your qualified health plan effective January 1, 2018.

You testified that you are seeking retroactive disenrollment from your qualified health plan effective November 1, 2017, because you and your child were unable to access your health care benefits due to never receiving a health insurance card.

NYSOH must permit an enrollee to be retroactively disenrolled from their qualified health plan 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 or your child's enrollment in a qualified health plan as confirmed in the October 11, 2017 plan enrollment notice was unintentional, inadvertent, or erroneous, nor was your enrollment in a qualified health plan 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, the record reflects that your or your child's enrollment in a qualified health plan as confirmed in the October 11, 2017 enrollment notice was with your knowledge or consent and that you paid the monthly premium for coverage to start November 1, 2017.

Therefore, there is no basis to find that NYSOH must permit you to retroactively terminate or cancel your and your child's enrollment in a qualified health plan.

The record reflects that on November 27, 2017, you contacted NYSOH and requested that you and your child be disenrolled from your qualified health plan as you no longer wanted to remain enrolled.

Enrollees must be allowed to terminate their coverage with a qualified health plan 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.

You requested that your and your child's coverage through your silver-level qualified health plan be terminated on November 27, 2017. Subsequently, NYSOH terminated your and your child's insurance coverage through your silver-level qualified health plan, effective December 31, 2017, which is the last day of the next 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 qualified health plan was effective December 31, 2017.

However, the plan disenrollment notice that was issued on November 28, 2017 indicates that your and your child's enrollment in your silver-level qualified health plan terminated effective January 1, 2018. The record indicates that you and your child were disenrolled from your silver-level qualified health plan as of December 31, 2017. Therefore, the November 28, 2017 plan disenrollment notice is MODIFIED to state that you and your child were disenrolled from your silver-level qualified health plan, effective December 31, 2017.

## **Decision**

The November 28, 2017 plan disenrollment notice is MODIFIED to state that you and your child were disenrolled from your silver-level qualified health plan, effective December 31, 2017.

**Effective Date of this Decision:** February 2, 2018

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

This decision does not affect your or your child's current eligibility or plan enrollment.



This decision does not change your nor your child's disenrollment date. Your and your child's enrollment in your silver-level qualified health plan ended as of December 31, 2017.

You and your child were enrolled in your silver-level qualified health plan from November 1, 2017 through December 31, 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 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 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 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 28, 2017 plan disenrollment notice is MODIFIED to state that you and your child were disenrolled from your silver-level qualified health plan, effective December 31, 2017.

This decision does not affect your or your child's current eligibility or plan enrollment.

This decision does not change your nor your child's disenrollment date. Your and your child's enrollment in your silver-level qualified health plan ended as of December 31, 2017.

You and your child were enrolled in your silver-level qualified health plan from November 1, 2017 through December 31, 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&etumi ama wo obi a okyer& 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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