



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

Notice of Decision

Decision Date: April 03, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025950

[REDACTED]

[REDACTED]

On February 21, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 8, 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
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Decision

Decision Date: April 03, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025950

[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 you and your spouse's enrollment in your qualified health plan ended effective December 31, 2017?

Procedural History

On August 7, 2017, you updated your NYSOH account and submitted an application for health insurance for you and your spouse.

On August 8, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible for APTC of up to \$685.00 per month, effective September 1, 2017. The attested household income in that application was \$40,282.44.

Also on August 8, 2017, NYSOH issued an enrollment notice confirming you and your spouse's enrollment in a platinum-level qualified health plan (QHP) with the application of your APTC, effective September 1, 2017.

On October 20, 2017, you updated your NYSOH account and submitted an application for health insurance for you and your spouse. The attested household income in that application was \$61,816.08.

On October 21, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible for APTC of up to \$463.00 per month, effective November 1, 2017.

Also on October 21, 2017, NYSOH issued an enrollment notice confirming you and your spouse's enrollment in a platinum-level QHP plan with the application of your APTC, effective November 1, 2017.

On November 15, 2017, NYSOH systematically updated your account based on information listed in your October 20, 2017 and submitted an application on your behalf for financial assistance with health insurance for the 2018 coverage year.

On November 16, 2017, NYSOH issued an eligibility determination notice based on the system updated application of November 15, 2017, stating that you and your spouse were eligible for APTC of up to \$648.96 per month, effective January 1, 2018. The system automatically re-enrolled you and your spouse in a platinum-level QHP with a plan enrollment start date of January 1, 2018.

On November 17, 2017, NYSOH issued a disenrollment notice stating that you and your spouse's enrollment in your platinum-level QHP would end effective January 1, 2018. This was because on November 16, 2017 you requested to end you and your spouse's plan.

Also on November 17, 2017, NYSOH issued an enrollment notice confirming you and your spouse's November 16, 2017 enrollment in a gold-level QHP plan with the application of your APTC, effective January 1, 2018.

On December 7, 2017, you updated your NYSOH account and submitted an application for health insurance for you and your spouse. The attested household income in that application was \$21,703.00.

On December 8, 2017, NYSOH issued an eligibility determination notice based on the updated application of December 7, 2017, stating that you and your spouse were eligible for Medicaid, effective December 1, 2017.

Also on December 8, 2017, NYSOH issued a disenrollment notice indicating that coverage in your and your spouse's gold-level QHP would end effective January 1, 2018.

Also on December 8, 2017, NYSOH issued a notice stating that you and your spouse were enrolled in a Medicaid Managed Care plan with a plan enrollment start date of January 1, 2018.

On December 18, 2017, you contacted the NYSOH Account Review Unit and appealed the date you and your spouse were disenrolled from your platinum-level QHP, requesting the disenrollment be made effective December 1, 2017.

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On February 21, 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 you updated your account on August 7, 2017 and requested health insurance for you and your spouse. You and your spouse were determined eligible for APTC and were subsequently enrolled in a platinum-level QHP with application of APTC effective September 1, 2017.
- 2) According to your NYSOH account, on October 20, 2017, you updated your account with new income information and you and your spouse were determined eligible for \$463.00 in APTC effective November 1, 2017. Your and your spouse's enrollment in your platinum-level QHP plan did not change, but the application of \$463.00 in APTC was effective November 1, 2017.
- 3) According to you NYSOH account, on November 15, 2017, on your behalf, the system submitted an updated application for financial assistance with health insurance for the 2018 coverage year based on the income information you submitted in the October 20, 2017 application. Based on the November 15, 2017, system submitted application, you and your spouse were determined eligible for APTC of \$648.96 per month effective January 1, 2018. The system automatically re-enrolled you and your spouse in your platinum-level QHP with a plan start date of January 1, 2018 for coverage year 2018.
- 4) According to your NYSOH account, on November 16, 2017, a navigator requested to end the platinum-level QHP that was scheduled to start effective January 1, 2018. The navigator selected, on your behalf, a gold-level QHP for you and your spouse with a plan enrollment start date of January 1, 2018.
- 5) According to your NYSOH account and your testimony, on December 7, 2017 you updated your account with the assistance of a navigator. In that application you attested to a household income of \$21,703.00. Based on that updated application, you and your spouse were determined eligible for Medicaid effective December 1, 2017.
- 6) According to your NYSOH account, you had elected to have automatic renewal of your application for health insurance for a 5-year period.

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- 7) You testified that your spouse handled everything related to the health insurance applications with NYSOH and the navigator. You testified that your spouse was [REDACTED] and unable to testify.
- 8) You testified that you believe the wrong income amounts were used in the system updated application submitted on your behalf on November 15, 2107 and that the navigator did not tell you about the changes.
- 9) You testified that since you and your spouse were eligible for Medicaid December 1, 2017 that you should not have to pay for your platinum-level QHP for the month of December 2017.
- 10) You testified that you paid the premium for the platinum-level QHP for the month of December 2017.
- 11) You testified that your spouse was [REDACTED] and that she had extensive medical care and treatments in the last several months of 2017 including 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)).

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)).

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)).

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)).

Medicaid Start Date

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse's enrollment in your platinum-level QHP ended effective December 31, 2017.

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The August 8, 2017 eligibility determination notice stated you and your spouse were eligible for APTC of \$685.00 effective September 1, 2017. You and your spouse were enrolled in a platinum-level QHP with APTC applied as of September 1, 2017. You updated your account on October 20, 2017 and changed your household income. On October 21, 2017 you and your spouse were determined eligible for \$463.00 in APTC effective November 1, 2017. You and your spouse continued in your platinum-level QHP but the level of APTC changed to \$463.00 effective November 1, 2017.

You testified that you are seeking retroactive disenrollment from your platinum-level QHP, effective December 1, 2017, because you became eligible for Medicaid, and that eligibility began on December 1, 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 QHP without their knowledge or consent by a third party.

There is no indication in the record that your and your spouse's enrollment in your platinum-level QHP as confirmed in the August 8, 2017 and October 21, 2017 enrollment notices were unintentional, inadvertent, or erroneous, nor was you and your spouse's enrollment in the platinum-level 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 you and your spouse's enrollment in the platinum-level QHP, as confirmed in the August 8, 2018 and October 21, 2017 enrollment notices, was without your knowledge or consent.

Therefore, there is no basis to find that NYSOH must permit you and your spouse to retroactively terminate or cancel your enrollment in the platinum-level QHP.

It is noted that as a result of the system update on November 15, 2017 that was run for purposes of renewal of your health insurance for the upcoming 2018 coverage year, you and your spouse were found eligible for premium tax credit of \$648.96 effective January 1, 2018. As you had previously elected to have the system automatically renew your health insurance for a 5-year period, NYSOH automatically re-enrolled you and your spouse in your platinum-level QHP with the new plan for coverage in 2018 to start January 1, 2018. On November 16, 2017, using a navigator, you changed your 2018 coverage from a platinum-level QHP to a gold-level QHP with a plan enrollment start date of January 1, 2018.

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This November 16, 2017 change did not affect you and your spouse's current enrollment in your platinum-level QHP that was due to end on December 31, 2017.

On December 7, 2017, using the services of a navigator, you updated your application for financial assistance. As a result, you and your spouse were found eligible for Medicaid, effective December 1, 2017. On December 8, 2017, NYSOH issued a disenrollment notice stating that you and your spouse's enrollment in your gold-level QHP would end effective January 1, 2018.

You testified that you are seeking an earlier disenrollment date because you had Medicaid coverage in December 2017 when you and your spouse were still enrolled in your platinum-level QHP.

If an enrollee is newly eligible for Medicaid, the last day of coverage through their QHP is the day before the Medicaid coverage begins. Since you were determined eligible for Medicaid on December 7, 2017 under the regulations your QHP should have terminated that day.

However, NYSOH does not allow for prorated or partial premiums based on the amount of days in a month you were enrolled in a QHP. Further, under the Medicaid rules, eligibility for Medicaid is made effective the first day of the month in which an individual is determined eligible for Medicaid. In you and your spouse's case that was December 1, 2017, which as a matter of Medicaid Program policy caused a permissible overlap of Medicaid coverage with your platinum-level QHP for December 2017. As such, your QHP was terminated at the end of the calendar month in which you became eligible for Medicaid.

Therefore, NYSOH properly determined that you and your spouse's platinum-level QHP terminated as of December 31, 2017, and NYSOH's December 8, 2017, disenrollment notice is AFFIRMED.

Decision

The December 8, 2017 disenrollment notice is AFFIRMED.

Effective Date of this Decision: April 03, 2018

How this Decision Affects Your Eligibility

This decision does not change your and your spouse's disenrollment date. Your and your spouse's enrollment in your QHP ended as of December 31, 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).

If You Disagree with this Decision (Appeal Rights)

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your case was decided, the 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 December 8, 2017 disenrollment notice is **AFFIRMED**.

This decision does not change you and your spouse's disenrollment date. You and your spouse's enrollment in your QHP ended as of 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 bεtumi 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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