



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

Notice of Decision

Decision Date: March 12, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026309

[REDACTED]

Dear [REDACTED],

On March 6, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 27, 2017 enrollment confirmation notice and December 27, 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: March 12, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026309

[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 Fidelis silver level qualified health plan was effective February 1, 2018?

Procedural History

On October 20, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible purchase a qualified health plan at full cost through NYSOH, effective January 1, 2017.

On November 17, 2016, NYSOH issued a notice confirming your enrollment in your Fidelis platinum level qualified health plan, effective January 1, 2017.

On October 19, 2017, NYSOH redetermined your eligibility for health insurance. That day, NYSOH prepared a preliminary eligibility determination stating that you were eligible to enroll in a qualified health plan through NYSOH.

On November 17, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a Fidelis platinum level qualified health plan, effective January 1, 2018.

On December 26, 2017, you contacted NYSOH and requested to terminate your enrollment in your Fidelis platinum level qualified health plan and to enroll in a Fidelis silver level qualified health plan.

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).

Also on December 26, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your Fidelis silver level qualified health plan, insofar as it did not begin on January 1, 2018.

On December 27, 2017, NYSOH issued an enrollment confirmation notice regarding your health insurance through NYSOH as of December 5, 2017, stating that you were enrolled in a Fidelis silver level qualified health plan, effective February 1, 2018.

Also on December 27, 2017, NYSOH issued a disenrollment notice stating that your enrollment in your Fidelis platinum level qualified health plan would end, effective January 31, 2018.

On March 6, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified that at the beginning of November 2017, you went on to your NYSOH account to change your enrollment for 2018 to a Fidelis silver level qualified health plan. However, you found out this was too soon, and you would need to log on after November 15, 2017.
- 2) You testified that sometime after November 15, 2017, possibly on November 29, 2017, you logged in to your NYSOH and selected a Fidelis silver level qualified health plan for enrollment for 2018.
- 3) You testified, and the record reflects, that you receive all of your notices from NYSOH by electronic mail.
- 4) You testified that you did not receive any electronic alerts regarding any enrollment notice in your NYSOH account telling you that you were enrolled in a Fidelis platinum level qualified health plan, effective January 1, 2018.
- 5) The events tab in your NYSOH account reflects that on November 16, 2017, user [REDACTED] selected a plan for enrollment, however, there is no indication in your account of which plan you selected for enrollment.

- 6) You testified that your username to access your NYSOH account is "[REDACTED]".
- 7) You testified that you did not know that your selection of a Fidelis silver level qualified health plan did not go through until December 2017 when you received the premium bill for January 2018.
- 8) Your NYSOH account reflects that on December 26, 2017, you requested to change your enrollment from a Fidelis platinum level qualified health plan to a Fidelis silver level qualified health plan.
- 9) The December 27, 2017 enrollment confirmation notice indicates that as early as December 5, 2017, NYSOH was aware of your selection of a Fidelis silver level qualified health plan.
- 10) NYSOH uploaded an evidence packet to your NYSOH account. Contained within that evidence packet under the heading of "electronic notice requirement" is a three-page memorandum dated August 21, 2017. The memorandum sets forth the federal requirements regarding use of electronic communications and asserts that NYSOH is in compliance with federal regulation and guidance on the use of electronic notices. The memorandum asserts that "the electronic notification rules do not require that exchanges track and monitor consumers actual receipt of electronic notices".
- 11) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the November 17, 2017 enrollment confirmation notice.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

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 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)).

Electronic Notices

If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your enrollment in your Fidelis silver level qualified health plan was effective February 1, 2018.

Your NYSOH account indicates that on November 16, 2017, you accessed your account and enrolled in coverage, however, it is unclear which plan you selected for enrollment at that time.

On November 17, 2017, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in a Fidelis platinum qualified health plan, effective January 1, 2018.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. Although NYSOH contends that it complied with federal mandates regarding electronic notices, there is no evidence in the file that NYSOH sent you an electronic alert notifying you of a new notice available in your account on November 17, 2017. You credibly testified that you did not receive an electronic alert regarding the enrollment confirmation notice, which advised you that you had been enrolled in a Fidelis platinum level qualified health plan, effective January 1, 2018. There is also no evidence in your account documenting that any email alert was sent to you regarding the notice, that any such electronic alert failed, or that the notice was later sent to you by regular mail.

The December 27, 2017 enrollment confirmation notice indicates that NYSOH was aware of your request to enroll in a Fidelis silver level qualified health plan as early as December 5, 2017.

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.

As the record reflects that you selected a Fidelis silver level qualified health plan at least as early as December 5, 2017, your enrollment in your Fidelis silver level qualified health plan should have begun on the first day of the first month following after December 5, 2017; that is, on January 1, 2018.

Therefore, the December 27, 2017 enrollment confirmation notice is MODIFIED to reflect that your enrollment in your Fidelis silver level qualified health plan was effective January 1, 2018.

The December 27, 2017 disenrollment notice is MODIFIED to reflect that your coverage in your Fidelis platinum level qualified health plan ended as of January 1, 2018.

Your case is RETURNED to NYSOH to begin your enrollment in your Fidelis silver level qualified health plan as of January 1, 2018.

Decision

The December 27, 2017 enrollment confirmation notice is MODIFIED to reflect that your enrollment in your Fidelis silver level qualified health plan was effective January 1, 2018.

The December 27, 2017 disenrollment notice is MODIFIED to reflect that your coverage in your Fidelis platinum level qualified health plan ended as of January 1, 2018.

Your case is RETURNED to NYSOH to begin your enrollment in your Fidelis silver level qualified health plan as of January 1, 2018.

Effective Date of this Decision: March 12, 2018

How this Decision Affects Your Eligibility

Your enrollment in your Fidelis silver level qualified health plan should have begun as of January 1, 2018.

Your case is being sent back to NYSOH to effectuate this change.

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

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).

- 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 December 27, 2017 enrollment confirmation notice is MODIFIED to reflect that your enrollment in your Fidelis silver level qualified health plan was effective January 1, 2018.

The December 27, 2017 disenrollment notice is MODIFIED to reflect that your coverage in your Fidelis platinum level qualified health plan ended as of January 1, 2018.

Your case is RETURNED to NYSOH to begin your enrollment in your Fidelis silver level qualified health plan as of January 1, 2018.

Your enrollment in your Fidelis silver level qualified health plan should have begun as of January 1, 2018.

Your case is being sent back to NYSOH to effectuate this change.

Legal Authority

We are issuing this determination in accordance with 45 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).

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।

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).

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.

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).