



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

## Notice of Decision

Decision Date: March 15, 2018

NY State of Health Account ID: [REDACTED]

Appeal Identification Number: AP000000026360

[REDACTED]

Dear [REDACTED],

On February 22, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 23, 2017 enrollment confirmation and disenrollment notices.

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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## Decision

Decision Date: March 15, 2018

NY State of Health Account ID [REDACTED]

Appeal Identification Number: AP000000026360

[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 bronze-level qualified health plan (QHP) had an enrollment start date of February 1, 2018?

## Procedural History

On October 6, 2014, the NYSOH system created an online account on your behalf and you were assigned account number [REDACTED]. The email address you provided at that time was [REDACTED].

On October 17, 2017, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year in [REDACTED]. That notice stated that, no action was required by you and that you qualified to buy a QHP at full cost, effective January 1, 2018. The notice further stated that NYSOH re-enrolled you into the same product you had before (a platinum-level QHP) and “[i]f you want to make a change, you must do so between November 16, 2017 and December 15, 2017.”

On November 17, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a platinum-level QHP with an enrollment start date of January 1, 2018.

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On December 15, 2017 at 11:10 P.M., you created another account and listed your email address as [REDACTED]. This account was assigned account number [REDACTED].

No plan updates were successfully made to either account by December 15, 2017.

On December 16, 2017, your NYSOH account, [REDACTED], was updated. You were enrolled in a hybrid, platinum-level QHP with an enrollment start date of February 1, 2018.

On December 17, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a hybrid, platinum-level QHP starting February 1, 2018.

On December 22, 2017, your NYSOH account, [REDACTED], was updated. You were enrolled in a bronze-level QHP with an enrollment start date of February 1, 2018.

Also on December 22, 2017, you spoke to NYSOH's Account Review Unit and requested an appeal relative to the bronze-level plan enrollment start date of your QHP.

On December 23, 2017, NYSOH issued a plan enrollment notice confirming that you enrolled in a bronze-level QHP with an enrollment start date of February 1, 2018.

On December 23, 2017, NYSOH issued a disenrollment notice stating that your enrollment in your hybrid, platinum-level QHP would end as of February 1, 2018.

On February 22, 2018, you had a scheduled telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you waived your right to the 15-day formal notice of hearing. The record was developed during the hearing and held open up to March 1, 2018, to allow you time to submit supporting documents.

On February 23, 2018, NYSOH received the supporting documents by fax. The documents were incorporated into the record as Appellant's Exhibit #1. The record was closed that same day.

## **Findings of Fact**

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

- 1) The record reflects you were enrolled in a platinum-level QHP as of January 1, 2017.

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- 2) The record reflects that you have two separate NYSOH accounts. One account, [REDACTED] is inactive and associated with your [REDACTED] email address. The other account, [REDACTED], is active and associated with your [REDACTED] email address.
- 3) The record reflects that all of your eligibility determination notices were issued in [REDACTED] (active).
- 4) The record reflects that [REDACTED] had no eligibility determinations and is not an active account.
- 5) You testified that you attempted to change your plan on the evening of December 15, 2017. However, the website would not allow you to pick a plan.
- 6) You testified that you attempted to call NYSOH on December 15, 2017 for help with your account; however, NYSOH was already closed for the day.
- 7) Your NYSOH account, [REDACTED], reflects that you attempted to access your account on December 15, 2017; however, your application was not completed and a plan was not selected on that day.
- 8) You testified that you contacted NYSOH on December 16, 2017 and advised the representative of your inability to change your plan due to issues with the website.
- 9) A review of your phone calls on December 16, 2017, confirms that you did contact NYSOH and inform the representative of your issues with the website. You expressed your interest in downgrading your platinum-level plan, however the representative enrolled you in a hybrid, platinum-level plan. The record reflects that your December 16, 2017 call was disconnected before you could confirm your selection and speak with the Account Review Unit (ARU) regarding your plan start date.
- 10) A review of your calls from December 22, 2017 confirms that you were disconnected from your call on December 16, 2017 while waiting to speak to ARU and you were looking to be enrolled in a Bronze level plan with a January 1, 2018 start date.
- 11) You testified and your account reflects that on December 22, 2017 you enrolled in a bronze-level QHP with an enrollment start date of February 1, 2018.



12) On February 23, 2018 you faxed in a 7-page document showing that the drop-down menus for “select household member” and “select document type” were not accessible (pages [REDACTED], the website is confusing as to the deadline for open enrollment (page [REDACTED] you last logged into your account on December 15, 2017 at 23:09 (pages [REDACTED] and you requested a new password to access your account on December 15, 2017 at 10:56 P.M. (page [REDACTED].

13) You testified that you want the bronze-level QHP enrollment to be effective as of January 1, 2018.

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 information and 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.

### Annual Re-enrollment into a Qualified Health Plan

If an enrollee remains eligible for enrollment in a qualified health plan as part of the annual eligibility redetermination and the plan in which they are enrolled remains available through NYSOH for renewal, such enrollee will have his or her enrollment through the qualified health plan renewed, unless an enrollee voluntarily terminates coverage (45 CFR § 155.335(j)(1)).

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## 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)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your enrollment in a bronze-level QHP was effective February 1, 2018.

The record reflects you were enrolled in a platinum-level QHP as of January 1, 2017.

If an enrollee remains eligible for enrollment in a qualified health plan as part of the annual eligibility redetermination and the plan in which they are enrolled remains available through NYSOH for renewal, such enrollee will have his or her enrollment through the qualified health plan renewed, unless an enrollee voluntarily terminates coverage.

On October 17, 2017, NYSOH issued an annual renewal notice in your case. That notice stated that, no action was required by you and that you qualified to buy a QHP at full cost, effective January 1, 2018. The notice further stated that NYSOH re-enrolled you into the same product you had before (a platinum-level QHP) and “[i]f you want to make a change, you must do so between November 16, 2017 and December 15, 2017.”

On November 17, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a platinum-level QHP with an enrollment start date of January 1, 2018.

The record reflects that you have two separate NYSOH accounts. One account was created on October 6, 2014 and assigned account number [REDACTED]. The other account was created on December 15, 2017 and assigned account number [REDACTED].

Since there were no plan updates made to your accounts by December 15, 2017, your automatic enrollment in a platinum-level QHP remained in effect starting January 1, 2018.

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However, you testified, and the record confirms that you attempted to access your account, [REDACTED] (inactive), to update your plan on December 15, 2017. Additionally, on February 23, 2018, you faxed in a 7-page document showing that you last logged into your account on December 15, 2017 at 23:09 (pages [REDACTED] and you requested a new password to access your account on December 15, 2017 at 10:56 P.M. (page [REDACTED]

You testified that you were unable to update your account due to issues with the website. You attempted to call NYSOH on December 15, 2017 when you were unable to change your plan; however, NYSOH was already closed for the day. You testified that when you next contacted the NYSOH on December 16, 2017, you advised a representative of your inability to change your plan due to issues with the website. A review of your phone calls on December 16, 2017, confirms your testimony. You expressed your interest in downgrading your platinum-level plan, however the representative enrolled you in a hybrid, platinum-level plan. The record reflects that your December 16, 2017 call was disconnected before you could confirm your selection and speak with the Account Review Unit regarding your plan start date. A review of your calls from December 22, 2017 confirm that you were disconnected from your call on December 16, 2017 and you were looking to be enrolled in a bronze-level plan with a January 1, 2018 start date.

You testified and your account reflects that on December 22, 2017 you enrolled in a bronze-level QHP with an enrollment start date of February 1, 2018.

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 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. Therefore, enrollment on December 22, 2017 would correctly result in a February 1, 2018 start date.

However, the record reflects that you timely tried to change your plan on December 15, 2017. You credibly testified that you were unable to change your plan and tried to contact the NYSOH on that day but the office was closed.

Based on a review of the complete record, it is found that had you been able to update your account on December 15, 2017, you would have changed your platinum-level plan to a bronze-level plan, effective January 1, 2018. Therefore, NYSOH's December 23, 2017, enrollment notice is MODIFIED, in relevant part, to state that you were enrolled in the bronze-level QHP with an enrollment start date of January 1, 2018.

The December 23, 2017, disenrollment notice stating that your enrollment in your hybrid, platinum-level QHP would end as of February 1, 2018 is MODIFIED to

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state that your enrollment in a hybrid, platinum-level QHP ends as of January 1, 2018.

Your case is RETURNED to NYSOH to disenroll you from your platinum level QHP for the month of January 2-18 and to back date your bronze-level QHP coverage for January 1, 2018 and to notify you accordingly.

## **Decision**

The December 23, 2017, plan enrollment notice is MODIFIED, in relevant part, to state that you were enrolled in the bronze-level QHP with an enrollment start date of January 1, 2018.

The December 23, 2017, disenrollment notice stating that your enrollment in your hybrid, platinum-level QHP would end as of February 1, 2018 is MODIFIED to state that your enrollment in a hybrid, platinum-level QHP ends as of January 1, 2018.

Your case is RETURNED to NYSOH to disenroll you from your platinum level QHP for the month of January 2-18 and to back date your bronze-level QHP coverage for January 1, 2018 and to notify you accordingly.

**Effective Date of this Decision:** March 15, 2018

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

The enrollment start date for your bronze-level QHP is January 1, 2018.

Your case is being sent back to NYSOH to change your bronze-level QHP start date to January 1, 2018 and to notify you once this has been done.

## **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.

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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 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, NYSOH plan enrollment notice confirming your enrollment in a platinum-level QHP with an enrollment start date of January 1, 2018 is MODIFIED, in relevant part, to state that you were enrolled in the bronze-level QHP with an enrollment start date of January 1, 2018.

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The December 23, 2017, disenrollment notice stating that your enrollment in your hybrid, platinum-level QHP would end as of February 1, 2018 is MODIFIED to state that your enrollment in a hybrid, platinum-level QHP ends as of January 1, 2018.

Your case is RETURNED to NYSOH to disenroll you from your platinum level QHP for the month of January 2-18 and to back date your bronze-level QHP coverage for January 1, 2018 and to notify you accordingly.

Your case is being sent back to NYSOH to change your start date and to notify you once this has been done.

### **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

**A Copy of this Decision Has Been Provided To:**







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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.

**□□□□□ (Hindi)**

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**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。

**□□□□□ (Nepali)**

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**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. yEbetumi ama wo obi a okyerE 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.

**אַײַדיש (Yiddish)**

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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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