



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

Notice of Decision

Decision Date: March 13, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026446

[REDACTED]

Dear [REDACTED],

On February 28, 2018, your spouse appeared by telephone at a hearing on your appeal of NY State of Health's November 17, 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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Decision

Decision Date: March 13, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026446

[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 qualified health plan (QHP) ended effective January 1, 2018?

Procedural History

On November 22, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive up to \$543.00 per month in advance payments of the premium tax credit (APTC), effective January 1, 2017. You were enrolled into a Fidelis gold level QHP, and your APTC was applied to your monthly premium, beginning January 1, 2017.

On October 28, 2017, NYSOH issued a renewal notice stating that you and your spouse were eligible to receive up to \$700.79 per month in APTC, effective January 1, 2018. The notice also stated that you were being re-enrolled into your same Fidelis QHP, beginning January 1, 2018.

On November 9, 2017, you updated your NYSOH account.

On November 10, 2017, NYSOH issued a notice of eligibility determination, stating that you and your spouse were eligible to receive up to \$612.00 per month in APTC, effective December 1, 2017.

Also on November 10, 2017, NYSOH issued a notice of enrollment confirmation, confirming you and your spouse's enrollment in a Fidelis gold level QHP, with your \$612.00 in APTC applied to your monthly premium as of December 1, 2017.

On November 14, 2017, you updated your NYSOH account again.

On November 15, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to receive up to \$612.00 in APTC, effective December 1, 2017.

Also on November 15, 2017, NYSOH again issued a notice of enrollment confirmation, confirming you and your spouse's enrollment in your Fidelis gold level QHP, with your \$612.00 in APTC applied to your monthly premium as of December 1, 2017.

On November 16, 2017, NYSOH issued a renewal notice stating that you and your spouse were eligible to receive up to \$737.94 per month in APTC, effective January 1, 2018. The notice also stated that you were being re-enrolled into your Fidelis gold level QHP, beginning January 1, 2018.

On November 17, 2017, NYSOH issued a notice of disenrollment, stating that your enrollment in your QHP was ending, effective January 1, 2018, because you requested for it to end on November 16, 2017.

Also on November 17, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in a Fidelis bronze level QHP with a \$0.00 monthly premium after the application of your APTC, beginning January 1, 2018.

On December 28, 2017, you contacted the NYSOH Account Review Unit and appealed the date you and your spouse were disenrolled from your QHP, requesting the disenrollment be made effective August 31, 2017.

On February 28, 2018, your spouse, [REDACTED], 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) Your NYSOH account reflects that you and your spouse were enrolled in a Fidelis gold level QHP with a monthly premium of \$444.84, after the application of your \$543.00 APTC.

- 2) Your spouse testified that, in September 2017, she tried to cancel your QHP coverage because you both had less income coming in, and did not have the money to pay the monthly premiums.
- 3) Your spouse testified that she called Fidelis to ask about canceling your coverage, and was told to call NYSOH.
- 4) Your spouse testified that she spoke to someone at NYSOH on September 1st or 4th, and told them that she wanted to cancel your coverage.
- 5) Your spouse testified that the person she spoke with asked her why she wanted to disenroll and warned her about a potential tax penalty for a lack of coverage.
- 6) Your spouse testified that the person she spoke with said they would go ahead and disenroll you from your coverage, and that NYSOH would send something about the disenrollment,
- 7) Your spouse testified that she never received anything in writing after that confirming the disenrollment.
- 8) Your spouse testified that, after this point, you continued to receive bills from Fidelis, so she called NYSOH and found out that the coverage had not been terminated.
- 9) Your spouse testified that she received a nonpayment notice sometime in December 2017 stating that your coverage was being terminated as of November 1, 2017 because of nonpayment.
- 10) The “Eligibility and Enrollment” tab in your NYSOH account reflects that you and your spouse did not have coverage for the months of November and December 2017.
- 11) Your spouse testified that Fidelis is still billing you the \$444.84 for both September and October 2017.
- 12) Your spouse testified that both NYSOH and Fidelis told her that they have no record of any calls from her in September 2017.
- 13) Your spouse testified that you have not yet filed your 2017 income tax return.
- 14) After the hearing, the Hearing Officer requested a list of all phone calls that took place between you, or your spouse, and NYSOH's customer

service in the month of September 2017. There was no record of any calls in that month.

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 QHP, with appropriate notice to the NYSOH or the QHP (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 QHP 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 QHP 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 QHP 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 QHP 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 QHP 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 spouse's enrollment in your QHP ended effective January 1, 2018.

On November 22, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible receive up to \$543.00 per month in APTC, effective January 1, 2017. You subsequently enrolled into a Fidelis QHP.

On November 17, 2017, NYSOH issue a disenrollment notice indicating you and your spouse would be disenrolled from your QHP, effective January 1, 2018. Your NYSOH account reflects that you were disenrolled from coverage as of November 1, 2017, and your spouse's testimony indicated that this was due to a disenrollment for nonpayment initiated by Fidelis. However, she testified that you were looking for your disenrollment to be effective as of September 1, 2017 instead.

NYSOH must permit an enrollee to be retroactively disenrolled 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 enrollment in a QHP, as confirmed in the November 22, 2016 enrollment notice was unintentional, inadvertent, or erroneous, nor was your enrollment in a 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 your enrollment in a QHP, as confirmed in the November 22, 2016 enrollment notice, was without your knowledge or consent.

Therefore, there is no basis to find that NYSOH must permit you to retroactively terminate or cancel your enrollment in a QHP.

Enrollees must be allowed to terminate their coverage with a QHP 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.

During the hearing, your spouse testified that she called to request cancellation of your QHP in early September 2017. She testified that she first called Fidelis, and then NYSOH, and that the NYSOH representative she spoke with told her that the coverage would be cancelled, and that NYSOH would issue something in the mail to confirm this.

Your spouse acknowledged in her testimony that she never received anything confirming the disenrollment in the mail, and there is no record of any disenrollment notice being issued by NYSOH in September 2017. Additionally, there is no record of any telephone call between anyone on your NYSOH account and NYSOH in the month of September 2017. As such, there is no evidence in the record to support your spouse's testimony that she requested to cancel coverage in September 2017.

You updated your NYSOH account on November 16, 2017 and requested disenrollment from your QHP.

NYSOH terminated your insurance coverage with your QHP effective December 31, 2017, which is the last day of the 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 QHP would be effective December 31, 2017.

However, as the record reflects that you were disenrolled from your coverage as of November 1, 2017 for nonpayment, the November 17, 2017 disenrollment notice is MODIFIED to state that you and your spouse were disenrolled from your QHP, effective November 1, 2017.

Decision

The November 17, 2017 disenrollment notice is MODIFIED to reflect that you and your spouse's enrollment in your QHP ended as of November 1, 2017 due to nonpayment of premiums.

Effective Date of this Decision: March 13, 2018

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).

How this Decision Affects Your Eligibility

You and your spouse's enrollment in your QHP ended as of November 1, 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 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 disenrollment notice is MODIFIED to reflect that you and your spouse's enrollment in your QHP actually ended as of November 1, 2017.

You and your spouse's enrollment in your QHP ended as of November 1, 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।

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).