



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

## Notice of Decision

Decision Date: March 14, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000026578

[REDACTED]

Dear [REDACTED]

On March 6, 2018 you appeared by telephone at a hearing on your appeal of NY State of Health's January 3, 2018 enrollment confirmation notice and the January 3, 2018 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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## Decision

Decision Date: March 14, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000026578

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

## Procedural History

On June 28, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for \$0.00 in advance payments of the premium tax credit (APTC), effective August 1, 2017.

On June 30, 2017, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in your Fidelis platinum level qualified health plan with a plan enrollment start date of August 1, 2017.

On October 24, 2017, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2017 or you might lose your health insurance coverage and, if applicable, any financial assistance.

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On November 22, 2017, NYSOH issued a disenrollment notice stating that your coverage with your Fidelis platinum level qualified health plan would end on December 31, 2017.

On November 30, 2017, NYSOH received your updated application for health insurance.

On December 1, 2017, NYSOH issued a notice of eligibility redetermination stating that you were eligible to receive \$0.00 per month in APTC, effective January 1, 2018.

On December 1, 2017, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in your Fidelis silver level qualified health plan with a plan enrollment start date of January 1, 2018.

On January 2, 2018, you contacted NYSOH and requested to terminate your enrollment in your Fidelis silver level qualified health plan and to enroll in a Fidelis platinum level qualified health plan.

Also on January 2, 2018, you spoke to NYSOH's Account Review Unit and appealed the start date of your Fidelis platinum level qualified health plan, insofar as it did not begin on January 1, 2018.

On January 3, 2018, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in your Fidelis platinum level qualified health plan with a plan enrollment start date of February 1, 2018.

Also on January 3, 2018, NYSOH issued a disenrollment notice stating that your enrollment in your Fidelis silver level qualified health plan would end on 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) Your NYSOH account indicates that on November 30, 2017 you updated your application for financial assistance.
- 2) You testified that when you contacted NYSOH to enroll in coverage for 2018, you advised the NYSOH representative that you wanted the Fidelis platinum level qualified health plan.

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- 3) During the hearing, you gave permission for the Hearing Officer to listen to recordings of phone calls you had with NYSOH.
- 4) On November 30, 2017 you placed two phone calls to NYSOH. A review of the recordings of those phone calls reflects that the first call was disconnected as the NYSOH representative was unable to hear you. During the second phone call, you updated your application for coverage for 2018. You requested to enroll in the Fidelis platinum level qualified health plan, but the NYSOH representative advised you that this was not showing as an option in the system because of your income, and gave you the option of enrolling in a Fidelis silver level qualified health plan or a Fidelis bronze level qualified health plan. You selected the Fidelis silver level qualified health plan.
- 5) You testified that when you received your premium bill for January 2018, you realized that you had been enrolled in a Fidelis silver level qualified health plan rather than a platinum level qualified health plan.
- 6) Your NYSOH account reflects that on January 2, 2018, you contacted NYSOH and requested to change your enrollment from a Fidelis silver level qualified health plan to a Fidelis platinum level qualified health plan.
- 7) You testified that you are seeking to have your Fidelis platinum level qualified health plan begin 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

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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.

### 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 your Fidelis platinum level qualified health plan was effective February 1, 2018.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual's projected eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On October 24, 2017, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you would qualify for financial help with paying for your health coverage. You were asked to update the information in your account by December 15, 2017 or you might lose your health insurance coverage and, if applicable, any financial assistance.

When an individual changes information in their application after the 15th of any month, NYSOH will make the redetermination that results from the change effective the first day of the second following month. Additionally, 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 after the fifteenth day of a month goes into effect on the first day of the second following month.

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The record shows that on November 30, 2017, you contacted NYSOH and updated the information in your NYSOH account and submitted a request to enroll in a Fidelis platinum qualified health plan. However, you were prevented from doing so by the NYSOH representative who advised you that only a Fidelis silver level qualified health plan and a Fidelis bronze level qualified health plan were showing as options for enrollment.

When you contacted NYSOH on January 2, 2018, you were able to enroll in a Fidelis platinum level qualified health plan.

Therefore, the credible evidence in the record reflects that you wanted to select a Fidelis platinum level qualified health plan for enrollment for 2018 on November 30, 2017, however, you were prevented from enrolling in a Fidelis platinum level qualified health plan that day by either system error or agent error on the part of NYSOH.

Had you been permitted to enroll in a Fidelis platinum level qualified health plan on November 30, 2017, consistent with your request, your enrollment would have started on the first day of the second month following after November 30, 2017; that is, on January 1, 2018.

The January 3, 2018 enrollment confirmation notice is MODIFIED to state that your enrollment in your Fidelis platinum level qualified health plan was effective January 1, 2018.

The January 3, 2018 disenrollment notice is MODIFIED to state that your enrollment in your Fidelis silver level qualified health plan ended effective January 1, 2018.

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

## **Decision**

The January 3, 2018 enrollment confirmation notice is MODIFIED to state that your enrollment in your Fidelis platinum level qualified health plan was effective January 1, 2018.

The January 3, 2018 disenrollment notice is MODIFIED to state that your enrollment in your Fidelis silver level qualified health plan ended effective January 1, 2018.

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

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**Effective Date of this Decision:** March 14, 2018

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

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

Your case is being sent back to NYSOH to begin your enrollment in your Fidelis platinum level qualified health plan as of January 1, 2018.

## **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 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 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 January 3, 2018 enrollment confirmation notice is MODIFIED to state that your enrollment in your Fidelis platinum level qualified health plan was effective January 1, 2018.

The January 3, 2018 disenrollment notice is MODIFIED to state that your enrollment in your Fidelis silver level qualified health plan ended effective January 1, 2018.

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

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

Your case is being sent back to NYSOH to begin your enrollment in your Fidelis platinum level qualified health plan as of January 1, 2018.

## **Legal Authority**

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

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**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 srε wo, frε 1-855-355-5777. ye&εtumi 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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