



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

Notice of Decision

Decision Date: March 22, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026709

[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.

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 22, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026709

[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 platinum level qualified health plan (QHP) began on February 1, 2018?

Procedural History

On November 27, 2017, you updated your NYSOH account and selected a health plan for enrollment.

On November 28, 2017, NYSOH issued a notice of eligibility redetermination stating that you were eligible to purchase a QHP at full cost through NYSOH, effective January 1, 2018.

Also on November 28, 2017, NYSOH issued a letter confirming your enrollment in a bronze level QHP, beginning January 1, 2018.

On January 2, 2018, you updated your health plan enrollment.

On January 3, 2018, NYSOH issued a disenrollment notice, stating that your enrollment in your bronze level QHP was ending, effective January 31, 2018, because you asked NYSOH to end this coverage.

That same day, NYSOH issued a notice of enrollment, confirming your enrollment in a platinum level QHP, beginning February 1, 2018.

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Also on January 3, 2018, you spoke to NYSOH's Account Review Unit and appealed, insofar as your enrollment in your platinum level QHP began on February 1, 2018, and not January 1, 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 support the following findings of fact:

- 1) Your NYSOH account reflects that you were enrolled in an Empire Blue Cross Blue Shield platinum QHP at full cost during 2017.
- 2) Your NYSOH account reflects that NYSOH sent you a notice on October 17, 2017 informing you that it was time to renew your coverage for 2018.
- 3) You testified that you receive a notice from your QHP informing you that they would not be offering the same plan in 2018, and another notice from NYSOH informing you to pick a plan for 2018.
- 4) You testified that you went onto NYSOH's website and decided to apply for financial assistance to see if you might be eligible for a subsidy toward your plan.
- 5) Your NYSOH account reflects that you updated your application twice on November 1, 2017, and applied for financial assistance in each application. You also uploaded income documentation to your account that day.
- 6) Your NYSOH account reflects that you were found eligible for the Essential Plan, effective December 1, 2017, with a \$20.00 monthly premium, based on the income documentation you submitted to NYSOH and the information in your application. You were also enrolled into an Essential Plan, beginning December 1, 2017.
- 7) Your NYSOH account reflects that you updated your application again on November 2, 2017, and listed an annual income of negative \$1,198.00. As a result, you were placed into pending Medicaid status, and were disenrolled from your Essential Plan coverage, effective December 1, 2017.

- 8) You testified that NYSOH told you that you were going to be eligible for Medicaid, and you never wanted Medicaid, so you tried to update your application again, but were locked out of NYSOH's website.
- 9) You testified that you were locked out of NYSOH's website until December 15, 2017.
- 10) You testified that, when you were able to update your application again, you were able to enroll in coverage for January 2018.
- 11) You testified that you updated your application by phone, and spoke with a man from NYSOH who reviewed all the plans with you.
- 12) You testified that you informed the NYSOH representative you spoke with that you wanted a platinum plan, but he enrolled you in a bronze plan instead.
- 13) You testified that you did not receive the enrollment notice from NYSOH indicating that you had been enrolled into a bronze plan because you were locked out of NYSOH's website.
- 14) Your NYSOH account reflects that your NYSOH application was updated on November 27, 2017 by "[REDACTED]," and that a plan was selected that day with this user name.
- 15) You testified that you did not find out that you were enrolled in a bronze plan until the end of December 2017, and that it was too late to change your plan to platinum for January 2018 at that point.
- 16) Your NYSOH account reflects that your enrollment was updated on January 2, 2018, and you were enrolled in a platinum plan beginning February 1, 2018.
- 17) You testified that you want your platinum plan coverage to begin as of January 1, 2018, and to be disenrolled from your bronze coverage in that month, because you have chronic health issues, and the bronze coverage is completely unaffordable, given the copays and deductible.
- 18) You testified that you paid the premium for the bronze plan for January 2018 because you did not want your coverage or credit rating to be jeopardized.
- 19) You testified that Blue Cross/Blue Shield declined to change your coverage from bronze to platinum in January 2018 without "permission" from NYSOH.

20) After the hearing, the Hearing Officer requested the recordings of any phone calls you had with NYSOH on November 27, 2017, the day you updated your application and selected a health plan for enrollment for 2018. The following findings of fact are taken from the recording of your phone call on November 27, 2017:

- a. You told the NYSOH representative that you were calling because you had been disenrolled from your coverage for the month of December 2017, and needed to be reinstated in coverage for that month;
- b. You told the NYSOH representative that you had been locked out of your NYSOH account, and today ([REDACTED]) was the first day you had been able to get back into your account;
- c. You told the NYSOH representative that you were able to get into your account and select a health plan, but that your coverage was not going to start until January 2018;
- d. The NYSOH representative told you that she could submit a request to backdate your coverage to December 1, 2017;

21) There was a record of a second phone call, earlier in the day on November 27, 2017, which was a call from NYSOH to you. However, when the Hearing Officer requested a copy of that recording, the Hearing Officer was informed that, according to notes entered by the NYSOH representative on that call, someone picked up the call and then hung up the phone, and there was no further conversation.

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

Applicable Law and Regulations

Enrollment in a Qualified Health Plan

The effective date of coverage by a QHP 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 determine that your enrollment in your platinum level QHP was effective February 1, 2018.

You testified that, after updating your application in early November 2017 to find out whether you were eligible for any financial assistance, you were locked out of your NYSOH account for a period of time that did not end until December 15, 2017. You testified that, eventually, you were able to speak with a NYSOH representative who assisted you with your application, and enrolled you in coverage that went into effect on January 1, 2018. You testified that you had asked to be enrolled in a platinum plan after reviewing your options with the representative, but that he enrolled you in a bronze plan instead. You testified that, since you could not log into your NYSOH account, you did not see any notice informing you that you had been enrolled into a bronze plan, and were not aware of this until the end of December 2017, when it was too late to change your coverage for January.

A review of your NYSOH account shows that your application was updated on November 27, 2017, and a plan was selected for enrollment on that day. However, your NYSOH account reflects that this update and plan selection were completed online by someone with the username [REDACTED],” and not by a NYSOH representative. Additionally, a review of the phone calls you had with NYSOH on November 27, 2017 – the day your application was updated and a plan selected – did not reveal any phone calls in which you discussed health plans with a NYSOH representative. Instead, the one recording that exists for that day reflects that you called NYSOH about the fact that you needed coverage for December 2017. During that call, you told the NYSOH representative that you had been able to get into your account that day ([REDACTED]) and select a plan for enrollment beginning January 1, 2018.

In sum, the record reflects that: you updated your NYSOH account during the time period when you allege that you were locked out; there is no evidence of any phone call between you and NYSOH on the day you selected your plan enrollment in which health plans were discussed; and that it was you, and not a NYSOH representative, who completed the selection of a health plan on your behalf on November 27, 2017. Based on this information, there is no evidence in the record supporting your contention that NYSOH enrolled you in the incorrect plan for January 2018, as the record reflects that you, and not NYSOH, completed your plan enrollment on November 27, 2017.

The record shows that on January 2, 2018, you updated the information in your NYSOH account and submitted a request to enroll in a different QHP. On January 3, 2018, NYSOH issued an enrollment confirmation notice stating that your enrollment in your platinum level QHP was effective February 1, 2018.

The date on which a QHP can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the first day to and including fifteenth day of a month goes into effect on the first day of the following month.

Therefore, as you selected your platinum QHP for enrollment on January 2, 2018, NYSOH's January 3, 2018 enrollment confirmation notice is AFFIRMED because it properly began your enrollment in your platinum level QHP on February 2, 2018.

Decision

The January 3, 2018 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: March 22, 2018

How this Decision Affects Your Eligibility

Your enrollment in your platinum level QHP properly began on February 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:

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).

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 January 3, 2018 enrollment confirmation notice is AFFIRMED.

Your enrollment in your platinum level QHP properly began on February 1, 2018.

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.

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