



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

Notice of Decision

Decision Date: March 21, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026981

[REDACTED]

Dear [REDACTED],

On March 6, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's October 17, 2017 plan enrollment 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).

This page intentionally left blank.



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

Decision

Decision Date: March 21, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026981

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that your enrollment in your qualified health plan was effective October 1, 2017?

Procedural History

On October 2, 2017, NY State of Health (NYSOH) issued an eligibility determination notice, based on your September 26, 2017 application, stating that you were eligible for up to \$15.00 per month in advanced payments of the premium tax credit (APTC), effective November 1, 2017. This notice further stated that you must confirm your health plan selection by November 25, 2017.

On October 6, 2017, NYSOH issued a plan enrollment notice, based on your October 5, 2017 plan selection, confirming your enrollment in a bronze-level qualified health plan with the application of your APTC, both effective November 1, 2017.

On October 17, 2017, NYSOH issued a plan enrollment notice, based on a coverage date override that was conducted, confirming your enrollment in a silver-level qualified health plan with the application of your APTC, both effective October 1, 2017 (see Document [REDACTED]).

On January 9, 2018, you contacted the NYSOH Account Review Unit and appealed the date you were enrolled in your qualified health plan, requesting

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).

your enrollment in your silver-level qualified health plan be effective November 1, 2017.

On March 6, 2018, you 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 hearing.

Findings of Fact

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

- 1) According to your NYSOH account, on October 5, 2017, you were initially enrolled in a bronze-level qualified health plan, effective November 1, 2017.
- 2) The record indicates that, on October 5, 2017, you spoke to NYSOH and requested that your qualified health plan coverage be backdated to October 1, 2017 (see Incident [REDACTED]).
- 3) You testified that you requested this backdate because you had technical difficulties with your application which caused the start date of your qualified health plan to be delayed.
- 4) This backdate request was approved on October 16, 2017 and you were contacted on October 17, 2017 at 8:52 a.m. by NYSOH to inform you that the backdate request had been approved (see Incident [REDACTED]).
- 5) You testified that you spoke with someone from NYSOH on or near October 17, 2017, who informed you that your enrollment would begin as of October 1, 2017.
- 6) Also on October 17, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a silver-level qualified health plan with application of your APTC, both effective October 1, 2017.
- 7) According to your NYSOH account, you receive notices from NYSOH by regular mail.
- 8) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 9) You testified that you attempted to use your coverage in late October 2017, and your doctor's office informed you that your coverage was invalid.

- 10) You testified that you did not attempt to contact NYSOH nor your qualified health plan after being informed that your qualified health plan was invalid, but just assumed that you did not have coverage for October 2017.
- 11) You testified that you received a bill from your qualified health plan in January 2018, seeking payment for your October 2017 premium.
- 12) According to your NYSOH account and your testimony, you did not contact NYSOH until January 2, 2018 to request to be disenrolled from your qualified health plan for the month of October 2017.
- 13) You testified that you do not want to be enrolled into coverage as of October 1, 2017, because you did not have access to and could not utilize your coverage that month, and believe you should not be charged the monthly premium.
- 14) You testified that you did pay your premium payment for the month of October 2017.
- 15) You testified that you would like to be enrolled in your silver-level qualified health plan as of November 1, 2017.

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 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)).

Termination of a Qualified Health Plan

NYSOH must permit an enrollee to terminate his or her coverage with a qualified health plan coverage, with appropriate notice to the NYSOH or qualified health plan (45 CFR § 155.430(b)(1)(i)).

For enrollee-initiated terminations, the last day of coverage is either:

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).

- 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 qualified health plan 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 qualified health plan 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 qualified health plan 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 qualified health plan 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 qualified health plan 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 your enrollment in your qualified health plan started as of October 1, 2017.

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).

The record indicates that you enrolled into a qualified health plan on October 5, 2017. This qualified health plan was effective November 1, 2017, as stated in the plan enrollment notice dated October 6, 2017.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the 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 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, since you requested to enroll into a plan on October 5, 2017, NYSOH properly determined that your qualified health plan coverage began the first month following October 2017; that is, on November 1, 2017.

However, on October 6, 2017, you also spoke with NYSOH and requested a backdate of your qualified health plan to October 1, 2017 (See Incident [REDACTED]). You testified that you requested this backdate because you had technical difficulties with your application which caused the start date of your qualified health plan to be delayed. This backdate request was approved on October 16, 2017 (see Incident [REDACTED]). The record further indicates that on October 17, 2017, NYSOH contacted you at 8:52 a.m. to inform you that your backdate request had been approved (see Incident [REDACTED]). Subsequently, NYSOH issued a plan enrollment notice on October 17, 2017, confirming your enrollment in a silver-level qualified health plan with the application of your APTC, both effective October 1, 2017 (see Document [REDACTED]).

Your NYSOH account indicates that you receive your notices from NYSOH by regular mail and there is no evidence in your NYSOH account that any of the notices that were sent to your mailing address were returned as undeliverable. Further, the record indicates that NYSOH spoke to you on October 17, 2017, to inform you that your backdate request had been approved and that you were enrolled into coverage as of October 1, 2017. Therefore, the record reflects that NYSOH properly notified you that your enrollment in your silver-level qualified health plan would begin as of October 1, 2017.

NYSOH must permit an enrollee to be retroactively disenroll from their qualified health plan 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 qualified health plan without their knowledge or consent by a third party.

There is no indication in the record that your enrollment in a qualified health plan, which was effective October 1, 2017, was unintentional, inadvertent, or erroneous, nor was your enrollment in a qualified health plan 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 qualified health plan 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 qualified health plan for the month of October 2017.

You testified that you attempted to use your qualified health plan in late October 2017, and you were informed by your doctor's office that your insurance was invalid. However, you further testified that you did not attempt to contact NYSOH nor your qualified health plan to see what the issue was. Rather, you testified that you assumed that you just did not have coverage for the month of October 2017. However, you testified that you received a premium bill from your qualified health plan for the month of October 2017 in January 2018. You testified that, since you did not have access to your qualified health plan in the month of October 2017, you do not believe that you should be charged for coverage and would like to be disenrolled.

The record reflects that, on January 2, 2018, you contacted NYSOH and requested that you be disenrolled from your qualified health plan for the month of October 2017, as you no longer wanted to remain enrolled for that month because you did not have access to the coverage.

Enrollees must be allowed to terminate their coverage with a qualified health plan 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. Since you did not contact NYSOH until January 2, 2018, NYSOH denied your request for retroactive disenrollment for the month of October 2017.

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 you would remain enrolled into coverage as of October 1, 2017.

Therefore, the October 17, 2017 plan enrollment notice is **AFFIRMED**.

Decision

The October 17, 2017 plan enrollment notice is AFFIRMED.

Effective Date of this Decision: March 21, 2018

How this Decision Affects Your Eligibility

Your enrollment in your silver-level qualified health plan was effective October 1, 2017.

This Decision does not affect your current eligibility.

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 October 17, 2017 plan enrollment notice is AFFIRMED.

Your enrollment in your silver-level qualified health plan was effective October 1, 2017.

This Decision does not affect your current eligibility.

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&etumi 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).