



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

## Notice of Decision

Decision Date: March 27, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027567

[REDACTED]

Dear [REDACTED]

On March 21, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 18, 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).

This page intentionally left blank.



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

## Decision

Decision Date: March 27, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027567

[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 your enrollment in a qualified health plan was effective no earlier than March 1, 2018?

## Procedural History

On December 13, 2017, NYSOH received an updated application for financial assistance with health insurance submitted on your behalf.

On December 14, 2017, NYSOH issued an eligibility determination notice stating you were eligible to receive up to \$372.00 in advance payments of the premium tax credit (APTC), effective January 1, 2018. The notice directed you to “pick a health plan.”

On January 17, 2018, NYSOH issued an enrollment notice, based on your January 16, 2018 plan selection, confirming your enrollment in qualified health plan (QHP) with Independent Health, effective March 1, 2018.

On January 18, 2018, NYSOH issued an enrollment notice, based on your January 17, 2018 plan selection, confirming your enrollment in a QHP with Blue Cross Blue Shield (BCBS), effective March 1, 2018.

Also on January 18, 2018, NYSOH issued a disenrollment notice stating your enrollment in the Independent Health QHP was terminated, effective March 1, 2018, because you requested to end that coverage.

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).

On January 22, 2018, you spoke to NYSOH's Account Review Unit and appealed the effective date of your QHP with BCBS insofar as your plan was not effective January 1, 2018

On March 21, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed thereafter.

## **Findings of Fact**

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

- 1) On November 28, 2013, NYSOH issued a notice confirming your election to receive all information from NYSOH electronically.
- 2) You testified that you do not have a computer and you never intentionally elected to receive your communication from NYSOH electronically.
- 3) You testified that [REDACTED] who works for BCBS set up your NYSOH account and has always assisted you with it, because you do not have a computer. You testified that this person submits your renewal applications for you.
- 4) You testified that the applications submitted under user name "[REDACTED]" were done by the BCBS employee.
- 5) You testified, and your account confirms, you were enrolled in a QHP with BCBS in 2017. That coverage ended on December 31, 2017.
- 6) You testified that you went to the BCBS representative that assists you with your account on December 13, 2017 to renew your coverage for 2018.
- 7) You testified that the BCBS representative submitted your application for you on December 13, 2017.
- 8) You testified that you told the BCBS representative that you wanted to stay in your current plan for 2018. You testified that you believed the BCBS employee had enrolled you in the same plan that day for 2018 coverage.
- 9) You testified that you did not receive the December 14, 2017 eligibility determination notice directing your to "pick a health plan."

- 10) You testified that you have never received a notice in the mail from NYSOH.
- 11) You testified that you do not receive email alerts from NYSOH.
- 12) You testified that you only receive notices from the health plan.
- 13) You testified that you received a notice from BCBS confirming your enrollment for 2018.
- 14) You testified that you discovered you had not been enrolled in a plan for 2018 when you were advised you did not have coverage at the pharmacy on [REDACTED]
- 15) You testified that you did not contact NYSOH on January 15, 2018, because it was [REDACTED] and you did not think the office would be open.
- 16) You testified that you contacted NYSOH on January 16, 2018 to select a health plan and you were told that your previous BCBS plan was no longer available so you enrolled in a plan with Independent Health. Coverage through that plan became effective March 1, 2018.
- 17) You testified that you spoke to the BCBS representative that helps you with your account the following day and he advised you that your previous BCBS plan was still available through NYSOH.
- 18) You testified, and your account confirms, that you contacted NYSOH on January 17, 2018 and selected a BCBS QHP which became effective on March 1, 2018, canceling out the prior Independent Health enrollment.
- 19) You testified, and your account confirms, you were without coverage for January and February 2018. You testified you had to pay out of pocket for prescription costs in those months.
- 20) You testified that you are seeking to have your BCBS coverage backdated to January 1, 2018.
- 21) According to your account, as of the date of this decision, your account is set up to receive information from NYSOH electronically.
- 22) You testified that you want to change your communication preference to receive your notices from NYSOH by regular mail. You were directed to contact NYSOH to update your communication preference.

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)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined your enrollment in a QHP was effective no earlier than March 1, 2018.

You were enrolled in a QHP with BCBS in 2017. That coverage ended on December 31, 2017.

You testified that [REDACTED] who works for BCBS has always assisted you with your account, because you do not have a computer. You testified that you went to this person on [REDACTED] to renew your coverage for the 2018 coverage year. You testified that the BCBS representative submitted your application for you on December 13, 2017. You testified that you told the BCBS representative that you wanted to stay in your current plan for 2018.

According to your account, an updated application was submitted on your behalf on December 13, 2017 by username "[REDACTED]" You testified that was the BCBS representative who submits your applications for you. Your account confirms that you were determined eligible to receive APTC, effective January 1, 2018, but no plan enrollment request was submitted at that time. You testified that you believed the BCBS representative had enrolled you in the same plan that day for 2018 coverage.

According to your account, NYSOH did not receive a QHP enrollment request for you until January 16, 2018. That day a QHP with Independent Health was selected. The following day, January 17, 2018, your QHP enrollment was switched to BCBS, canceling out the previous enrollment, and coverage through

the BCBS plan became effective on March 1, 2018. You appealed insofar as your BCBS coverage was not effective January 1, 2018.

Pursuant to the above cited regulations, the effective date of coverage by a QHP is determined by the date on which an applicant selects a plan for enrollment. For selections received by NYSOH from the first to the fifteenth of any month NYSOH must generally ensure that coverage is effective the first day of the following month. 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.

Since the evidence establishes that NYSOH did not receive an enrollment request for you for 2018 coverage until January 16, 2018, after the fifteenth day of the month, your coverage could not have become effective until the first of the second following month; that is, March 1, 2018. Although the evidence establishes that you did not select the BCBS plan until January 17, 2018, even if you had selected it on January 16, 2018, your coverage would still have been effective March 1, 2018.

Therefore, the January 18, 2018 enrollment notice stating you were enrolled in a QHP with BCBS, effective March 1, 2018, was correct and is AFFIRMED.

It is noted, however, that you testified that you told the BCBS representative who submitted the updated application on your behalf on December 13, 2017 that you wanted to reenroll in the same BCBS plan for 2018. Based on that testimony, your case is REFERRED to Plan Management to investigate whether actions or inactions on the part of a representative from BCBS prevented you from timely enrolling in a plan on December 13, 2017. If it is determined that the failure to properly submit a plan enrollment request on December 13, 2017 was caused by a plan representative, the health plan has the authority to backdate your coverage to January 1, 2018.

## **Decision**

The January 18, 2018 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** March 27, 2018

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

This decision does not change your coverage start date.

Your coverage through your BCBS QHP became effective March 1, 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).

Your case is being REFERRED to Plan management to investigate whether the failure to properly submit a plan enrollment request for you on December 13, 2017 was caused by a representative of the health plan.

### **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 January 18, 2018 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your coverage start date.

Your coverage through your BCBS QHP became effective March 1, 2018.

Your case is being **REFERRED** to Plan management to investigate whether the failure to properly submit a plan enrollment request for you on December 13, 2017 was caused by a representative of the health plan.

## **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).