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

Notice of Decision

Decision Date: April 4, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000027701

[redacted]

[redacted]

On March 26, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 2, 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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NY State of Health Account ID: [redacted]
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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

> Did you provide a timely appeal request of the November 2, 2017 disenrollment notice?
>
> Did NY State of Health (NYSOH) properly determine that your enrollment in your qualified health plan ended effective November 30, 2017?

Procedural History

On October 31, 2017, NYSOH received your initial application for health insurance.

On November 1, 2017, NYSOH issued an eligibility determination notice, based on that application, stating you were eligible to purchase a qualified health plan at full cost, effective December 1, 2017.

Also on November 1, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a Bronze-level qualified health plan for a cost of $395.89 per month, effective November 1, 2017.

On November 1, 2017, income information in your NYSOH account was updated. Based on the information in the account, you were put in a pending Medicaid status with further income documentation and directed to verify the income in your application.

On November 2, 2017, NYSOH issued a disenrollment notice stating your enrollment in your Bronze-level qualified health plan was ending on November 30, 2017. The notice stated this was because you were no longer eligible to remain enrolled in your health plan.

On November 3, 2017, you provided income documentation which was verified by NYSOH that day.

On November 3, 2017, an updated application was submitted.

On November 4, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective November 1, 2017.

January 24, 2018, you contacted the NYSOH Account Review Unit and appealed the date you were disenrolled from your qualified health plan, requesting the disenrollment be made effective November 1, 2017.

Your telephone hearing was initially scheduled with NYSOH for March 16, 2018. A Hearing Officer from NYSOH's Appeals Unit contacted you on this date. You requested an adjournment of your hearing for personal reasons, which the Hearing Officer granted.

On March 26, 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 proceeding.

Findings of Fact

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

1) According to your NYSOH account, you indicated in your October 31, 2017 application that you were to lose health insurance coverage outside the Marketplace as of October 31, 2017.

2) According to your NYSOH, on that basis, you were granted a special enrollment period to select a qualified health plan and did so that same day.

3) According to your NYSOH account, you were enrolled in a qualified health plan through NYSOH with coverage effective as of November 1, 2017.

4) You testified that you paid the full premium to your health plan for the month of November 2017.

5) According to your NYSOH account, you updated your application on November 1, 2017 and, on November 3, 2017, after NYSOH reviewed your income documentation, you were found eligible for Medicaid.

6) You testified that you are seeking an earlier disenrollment date because you had Medicaid coverage in November 2017, while you were still enrolled in your qualified health plan.

7) You testified you did not use your insurance through your qualified health plan during the month of November 2017.

8) You testified, after being determined eligible for Medicaid in November 2017, the following occurred:

   a.) You requested disenrollment and full reimbursement of the premium you paid from your health plan;
   b.) The health plan told you it would process the request if you sent them documentation showing you were now enrolled in Medicaid;
   c.) Your health plan never got back to you about the results of your refund for several months; and
   d.) You then to contacted NYSOH to request reimbursement and, when you were denied, you requested an appeal hearing.

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

Applicable Law and Regulations

Timely Appeal Requests

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(1)).

Special Effective Dates

If a consumer loses minimum essential coverage or becomes newly eligible for enrollment in a QHP through the NYSOH and the consumer selects a plan on or before the day of the triggering event, NYSOH must ensure that the coverage effective date is on the first day of the month following the date of the triggering event. If the plan selection is made after the date of the triggering event, the exchange must ensure that coverage is effective in accordance with the regular effective dates for qualified health plans (45 CFR § 155.420(2)(iv)).

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)).

If an enrollee is newly eligible for Medicaid, the last day of coverage for the qualified health plan is the day before the Medicaid coverage begins (45 CFR § 155.430(d)(2)(iv)).

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 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 first issue under review is whether you provided a timely appeal request of the November 2, 2017 disenrollment notice.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of your disenrollment from your qualified health plan, as addressed in the November 2, 2017 disenrollment notice, an appeal should have been filed by January 6, 2018, allowing for five days for receipt of the notice. According to the credible evidence of record, you did not contact NYSOH until January 22, 2018 to file a formal complaint and a formal appeal was not filed until January 24, 2018. These dates are beyond 60 days from the November 2, 2017 disenrollment notice.

However, you testified that, after being determined eligible for Medicaid in November 2017, you requested disenrollment as of November 1, 2017, and full reimbursement of the premium you paid from your health plan. The health plan told you it would process the request if you sent them documentation showing you were now enrolled in Medicaid. You explained your health plan never got back to you about the results of your refund for several months so you then contacted NYSOH to request reimbursement. You further testified that, when you were denied reimbursement by NYSOH, you requested an appeal hearing. Since you credibly testified your health plan did not provide a timely response to you about your reimbursement, it delayed your initiation of an appeal request to NYSOH. Therefore, NYSOH's Appeals Unit may consider your request timely for purposes of reaching the merits of your appeal.

It is noted that, on October 31, 2017, you were granted a special enrollment period due to losing health insurance coverage outside the Marketplace that same day. The record further reflects you selected a qualified health plan on October 31, 2017, with a November 1, 2017 enrollment start date. If a consumer loses minimum essential coverage or becomes newly eligible for enrollment in a QHP through the NYSOH and the consumer selects a plan on or before the day of the triggering event, NYSOH must ensure that the coverage effective date is on the first day of the month following the date of the triggering event. Therefore and although not in dispute, NYSOH was correct in enrolling you in your qualified health plan as of November 1, 2017.

The second issue under review is whether NYSOH properly determined that your enrollment in your qualified health plan ended effective November 30, 2017.

On November 1, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost, effective December 1, 2017. You enrolled in a Bronze-level qualified health plan on October 31, 2017 for a November 1, 2017 start date.

You testified that you are seeking retroactive disenrollment from your qualified health plan, effective November 1, 2017.

NYSOH must permit an enrollee to be retroactively disenrolled 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 as confirmed in the November 1, 2017 enrollment notice 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 as confirmed in the November 1, 2017 plan 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 qualified health plan.

On November 1, 2017, you contacted NYSOH to update your application for financial assistance. You then provided supporting documentation which was verified on November 3, 2017. As a result, you were found eligible for Medicaid effective November 1, 2017.

You testified that you are seeking an earlier disenrollment date from your qualified health plan because you had Medicaid coverage in November 2017, when you were still enrolled in your qualified health plan.

If an enrollee is newly eligible for Medicaid, the last day of coverage through their qualified health plan is the day before the Medicaid coverage begins. Since you were determined eligible for Medicaid on November 3, 2017 under the regulations, your qualified health plan should have terminated that day. However, NYSOH does not allow for prorated or partial premiums based on the amount of

days in a month you were enrolled in a qualified health plan. As such, your plan was terminated at the end of the calendar month in which you became eligible for Medicaid; that is, as of November 30, 2017.

Therefore, NYSOH properly determined that your qualified health plan terminated as of November 30, 2017, such that NYSOH's November 2, 2017 disenrollment notice to this effect is AFFIRMED.

Decision

The November 2, 2017 disenrollment notice is AFFIRMED.

Effective Date of this Decision: April 4, 2018

How this Decision Affects Your Eligibility

This decision does not change your disenrollment date. Your enrollment in your qualified health plan ended as of November 30, 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 2, 2017 disenrollment notice is AFFIRMED.

This decision does not change your disenrollment date. Your enrollment in your qualified health plan ended as of November 30, 2017.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[redacted]

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).

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。我们可以为您免费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 مجانًا.

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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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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