



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

Notice of Decision

Decision Date: May 17, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027908



Dear [REDACTED]

On April 17, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 27, 2018 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).

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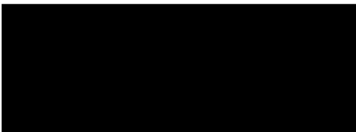


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: May 17, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027908



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 a Silver-level qualified health plan was effective no earlier than March 1, 2018?

Procedural History

On December 1, 2016, NYSOH issued an eligibility determination notice stating you were eligible to purchase a qualified health plan at full cost, effective January 1, 2017. You subsequently enrolled in a Gold-level qualified health plan as of January 1, 2017.

On October 17, 2017, NYSOH issued a renewal notice stating it was time to renew your health insurance with NYSOH. The notice stated that you qualified to purchase a qualified health plan at full cost, effective January 1, 2018. The notice also stated you were enrolled in a Gold-level qualified health plan, effective January 1, 2018. The notice stated you were enrolled in the same product you had in 2017 and, if you wanted to make a change, you must do so between November 16, 2017 and December 15, 2017.

On November 17, 2018, NYSOH issued a plan enrollment notice confirming your enrollment in a Gold-level qualified health plan, effective January 1, 2018.

On January 26, 2017, you contacted NYSOH and updated your enrollment and enrolled in a Silver-level qualified health plan, effective March 1, 2018.

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Also on January 26, 2018, you spoke to NYSOH's Account Review Unit and appealed the enrollment date in your Silver-level qualified health plan effective March 1, 2018, requesting a January 1, 2018 effective date.

On January 27, 2018, NYSOH issued a disenrollment notice confirming that you requested to end coverage in your Gold-level qualified health plan on January 26, 2018, which would end on February 28, 2018.

Also on January 27, 2018, NYSOH issued a plan enrollment notice confirming your enrollment in a Silver-level qualified health plan, effective March 1, 2018.

On April 17, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open for the Hearing Officer to review a recording of a telephone conversation you had with NYSOH on January 5, 2018. NYSOH produced the call recording on May 8, 2018, and the Hearing Officer listened to it that day. The record was closed that day.

Findings of Fact

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

- 1) Your NYSOH account indicates you receive notices from NYSOH by regular mail.
- 2) You testified that you did not receive any notices from NYSOH telling you that you were determined eligible to enroll in a full cost qualified health plan as of January 1, 2018, or that you had been re-enrolled in the same health plan you had in 2017.
- 3) All notices issued by NYSOH were all sent to the address listed on your NYSOH account.
- 4) No notices sent to you at that address listed on your NYSOH account have been returned as undeliverable.
- 5) You testified that you did not know you needed to renew your application or that you were re-enrolled in a Gold-level qualified health plan until your premium had increased in January 2018.
- 6) Your NYSOH account indicates that you submitted a new updated enrollment to NYSOH for a Silver-level qualified health plan on January 26, 2018.

- 7) Your enrollment in the Silver-level qualified health plan became effective March 1, 2018.
- 8) You testified that you want your Silver-level qualified health plan to begin on January 1, 2018.
- 9) You testified that you might have used your Gold-level qualified health plan while enrolled in January 2018 and February 2018.
- 10) Notes in your NYSOH account show you contacted NYSOH on January 5, 2018, and requested a change in your enrollment but the agent did not confirm and checkout your plan twice, as is required to confirm enrollment (see Incident [REDACTED]).
- 11) You testified that you had contacted NYSOH earlier and requested a change in your plan enrollment.
- 12) A review of the call placed on January 5, 2018, indicates that you requested to change your health plan from Gold-level to Silver-level qualified health plan. The agent confirmed that you were choosing the Silver-level plan, and you responded "Yes." The call was then ended.

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 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

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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.

Redetermination During a Benefit Year

Any change resulting from redeterminations during a benefit year should be made effective the first day of the month following the date of the notice of redetermination, except that redeterminations resulting from changes made after a date specified by the state, which can be no earlier than the 15th of the month, may not be made effective until the first day of the month after the month following the date of the notice of redetermination. (45 CFR § 155.330(f)(1) and (2). New York has specified that changes made after the 15th of a given month will take effect the month after the following month.

Legal Analysis

The issue under review is whether NYSOH properly determined that your enrollment in a Silver-level qualified health plan was effective no earlier than March 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 17, 2017, NYSOH issued an annual renewal notice in your case. That notice stated you were automatically re-enrolled as of January 1, 2018, in the same Gold-level qualified health you had for 2017. The notice stated if you wanted to make a change, you must do so between November 16, 2017 and December 15, 2017.

Because there was no timely response to this notice, your eligibility for financial assistance and your enrollment in a qualified health plan was automatically renewed in the stated Gold-level qualified health plan as of January 1, 2018.

You testified that you did not receive any notice from NYSOH telling you that you needed to renew your application or that you were re-enrolled in a Gold-level qualified health plan until your premium had increased in January 2018. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any

of the notices that were sent to your mailing address were returned to NYSOH as undeliverable.

Therefore, the record reflects that NYSOH properly notified you of your annual renewal and that if you wished to make any changes you had to do so between November 16, 2017 and December 15, 2017.

The record shows you submitted a new updated enrollment to NYSOH for a Silver-level qualified health plan on January 26, 2018. Your enrollment in the Silver-level qualified health plan became effective March 1, 2018.

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 an including the fifteenth day of a month goes into effect on the first day of the following month. Ordinarily, since your updated enrollment was submitted on January 26, 2018 your enrollment in the Silver-level qualified health plan would take effective the first day of the second month following January, that is on March 1, 2018.

However, based on a telephone call recording reviewed by the Hearing Officer, it is determined that you did call earlier than January 26, 2018, to request a change in your enrollment from a Gold-level qualified health plan to a Silver-level qualified health plan. The result of that call was that you submitted an enrollment over the telephone with a NYSOH agent on January 5, 2018. The call was ended after you had chosen the Silver-level qualified health plan and was confirmed by the NYSOH agent. The call was then ended. Had this enrollment been properly processed, the effective date of your Silver-level qualified health plan would have been the first day of the first month following January 2018; that is, as of February 1, 2018.

Therefore, NYSOH's January 27, 2018 disenrollment notice is MODIFIED to state your enrollment in your Gold-level qualified health plan ended on January 31, 2018.

Also, NYSOH's January 27, 2018 plan enrollment notice is MODIFIED to state your enrollment in your Silver-level qualified health plan was effective as of February 1, 2018.

Your case is RETURNED to NYSOH to effectuate the above changes and notify you once completed.

Your premium, deductibles, and copays, will change for February 2018, as a result of this change in metal-level qualified health plans.

You testified that you might have used your Gold-level qualified health plan while enrolled in January 2018 and February 2018. If applicable, any claims that have been processed and paid by your Gold-level qualified health plan for medical

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services and/or treatment received in February 2018, might be charged back and resubmitted through your Silver-level qualified health plan, which can result in you having to pay a higher deductible and/or greater copays.

Decision

The January 27, 2018 disenrollment notice is MODIFIED to state your enrollment in your Gold-level qualified health plan ended on January 31, 2018.

The January 27, 2018 plan enrollment notice is MODIFIED to state your enrollment in your Silver-level qualified health plan was effective as of February 1, 2018.

Your case is RETURNED to NYSOH to effectuate the above changes and notify you once completed.

Effective Date of this Decision: May 17, 2018

How this Decision Affects Your Eligibility

Your disenrollment from your Gold-level qualified health plan should have ended as of January 31, 2018, and your enrollment in your Silver-level qualified health plan should have begun as of February 1, 2018.

Your case is being sent back to NYSOH to change the end date of your Gold-level qualified health plan to January 31, 2018, and to change the start date of your Silver-level qualified health plan to February 1, 2018.

NYSOH will notify you once this is done.

Your premium, deductibles, and copays, will change for February 2018, as a result of this change in metal-level qualified health plans. If applicable, any claims that have been processed and paid by your Gold-level qualified health plan for medical services and/or treatment received in February 2018, might be charged back and resubmitted through your Silver-level qualified health plan, which can result in you having to pay a higher deductible and/or greater copays.

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.

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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

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Summary

The January 27, 2018 disenrollment notice is MODIFIED to state your enrollment in your Gold-level qualified health plan ended on January 31, 2018.

The January 27, 2018 plan enrollment notice is MODIFIED to state your enrollment in your Silver-level qualified health plan was effective as of February 1, 2018.

Your case is RETURNED to NYSOH to effectuate the above changes and notify you once completed.

Your disenrollment from your Gold-level qualified health plan should have ended as of January 31, 2018, and your enrollment in your Silver-level qualified health plan should have begun as of February 1, 2018.

Your case is being sent back to NYSOH to change the end date of your Gold-level qualified health plan to January 31, 2018, and to change the start date of your Silver-level qualified health plan to February 1, 2018.

NYSOH will notify you once this is done.

Your premium, deductibles, and copays, will change for February 2018, as a result of this change in metal-level qualified health plans. If applicable, any claims that have been processed and paid by your Gold-level qualified health plan for medical services and/or treatment received in February 2018, might be charged back and resubmitted through your Silver-level qualified health plan, which can result in you having to pay a higher deductible and/or greater copays.

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।

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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 sre wo, fre 1-855-355-5777. y&b&tumi ama wo obi a okyer& 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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