



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

## Notice of Decision

Decision Date: May 7, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000028293



Dear [REDACTED]

On April 16, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 24, 2018 disenrollment notice and the January 30, 2018 eligibility and enrollment confirmation notices.

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.

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## Decision

Decision Date: May 7, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000028293



## Issues

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

Does the Appeals Unit of NY State of Health (NYSOH) have the authority to review whether your enrollment in your qualified health plan (QHP) was properly ended for non-payment of premium, effective January 1, 2018?

Did NYSOH properly determine that your re-enrollment in your QHP was effective March 1, 2018?

## Procedural History

On October 24, 2017, NYSOH issued a renewal notice stating it was time to renew your application for health insurance for 2018.

On November 21, 2017, NYSOH issued a disenrollment notice stating your enrollment in your Empire gold level QHP was ending, effective December 31, 2017.

On December 15, 2017, you updated your NYSOH account.

On December 16, 2017, NYSOH issued a notice of eligibility determination stating you were eligible to receive up to \$322.00 per month in advance payments of the premium tax credit (APTC), effective January 1, 2018.

Also on December 16, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Empire gold level QHP with a monthly premium of \$616.52, after the application of your APTC, beginning January 1, 2018.

On January 24, 2018, NYSOH issue a notice of disenrollment, stating your enrollment in your QHP was ending, effective January 1, 2018, because you did not pay your insurance bill by the payment deadline.

On January 29, 2018, you updated your application for financial assistance.

On January 30, 2018, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$295.00 per month in APTC, effective March 1, 2018.

Also on January 30, 2018, NYSOH issue a notice of enrollment confirmation, based on your plan selection on January 29, 2018, stating that you were enrolled in an Empire gold level QHP, with a monthly premium of \$643.52 after the application of your APTC, beginning March 1, 2018.

On February 2, 2018, you spoke to NYSOH's Account Review Unit and appealed the termination of your enrollment in your QHP for the month of February 2018.

On April 30, 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 supports the following findings of fact:

- 1) You testified that you are only appealing your disenrollment from your Essential Plan for the month of February 2018, and are not looking to have your January 2018 coverage reinstated.
- 2) You were enrolled into a QHP with coverage beginning January 1, 2018.
- 3) You testified you waited for the first month's premium bill to arrive, but that it did not come to you until January 26, 2018, the same day you received a letter from your QHP stating your coverage was being cancelled for nonpayment of the premium.
- 4) You testified the premium invoice was dated December 18, 2017, but you did not receive it until January 26, 2018. You testified the envelope did not have a postmark on it to show when it was mailed.

- 5) You testified you sometimes have problems with your mail, and that your mail is occasionally delivered to your neighbor.
- 6) You testified you did not contact your QHP at any point prior to receiving the cancellation notice, as you always received the invoice in the mail, and you assumed it had just been held up.
- 7) You testified you contacted NYSOH as soon as you could to try to reenroll in coverage.
- 8) Your NYSOH account reflects your application was updated on January 29, 2018, and you reenrolled in coverage on that day, with a coverage effective date of March 1, 2018.
- 9) You testified you spoke to your QHP to pay your premium, and were told it was up to NYSOH to decide whether you could be reenrolled for the month of February.
- 10) Your father, [REDACTED] [REDACTED] also offered sworn testimony that he participated in a three-way conference call with your QHP and NYSOH to try to get your coverage reinstated.
- 11) Your father testified he was never offered the opportunity by your QHP to reinstate you in your coverage for January or February 2018 at full cost, and that he did not think to ask whether that was a possibility.
- 12) Your father testified he was told the earliest date your coverage could begin again was March 1, 2018.
- 13) You testified you were hoping to be able to reenroll as of February 1, 2018 as a “compromise.”
- 14) You testified you “probably” have medical bills from the month of February that are unpaid.

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

## **Applicable Law and Regulations**

### Appealable Issues

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility,

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including the amount of APTC and level of cost-sharing reductions; (3) a failure by NYSOH to provide timely notice of an eligibility determination; and (4) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

### Redetermination During a Benefit Year

When a redetermination is issued because of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15<sup>th</sup> of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

### 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 first issue under review is whether NYSOH properly terminated your enrollment in your QHP for nonpayment of the premium, effective January 1, 2018.

On December 15, 2017, you selected a QHP for enrollment, with coverage beginning as of January 1, 2018.

You testified you waited to receive an invoice from your QHP so that you could pay your premium. You testified you first received an invoice, dated December 18, 2017, on January 26, 2018, the same day you received a cancellation notice from your QHP.

On January 24, 2018, NYSOH issued a notice stating that you were disenrolled from your QHP for non-payment of premiums, effective January 1, 2018.

NYSOH Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a

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redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) a failure to provide timely notice of an eligibility determination and (4) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits of whether you were properly terminated from your QHP for non-payment of premiums. Therefore, your appeal of the January 24, 2018 disenrollment notice is **DISMISSED** as a non-appealable issue.

The second issue under review is whether NYSOH properly determined that your reenrollment in a QHP, as well as the application of APTC, was effective no earlier than March 1, 2018.

The record shows that on January 29, 2018, you updated the information in your NYSOH account and submitted a request to enroll in a QHP. On January 30, 2018, NYSOH issued an enrollment confirmation notice stating that your enrollment in your QHP was effective March 1, 2018, and that APTC would be applied to your monthly premium beginning that date as well.

When an individual changes information in their application after the 15th of any month, NYSOH will make the redetermination that results from the change effective the first day of the second 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 after the fifteenth day of a month goes into effect on the first day of the second following month.

Therefore, NYSOH's January 30, 2018 eligibility determination and enrollment confirmation notices are **AFFIRMED** because they properly began your enrollment in your QHP, along with the application of your APTC to your monthly premium, on March 1, 2018.

## **Decision**

Your appeal of the insurer's termination of your enrollment in your QHP for non-payment of premiums, effective January 1, 2018, is **DISMISSED** as a non-appealable issue.

The January 30, 2018 eligibility determination, insofar as it begins your eligibility for APTC on March 1, 2018, is **AFFIRMED**.

The January 30, 2018 enrollment confirmation notice is **AFFIRMED**.

**Effective Date of this Decision:** May 7, 2018

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

This decision does not change your eligibility.

Your reenrollment in your QHP was effective March 1, 2018.

If you wish, you may request an appeal of the termination of your enrollment for nonpayment of premiums by your QHP, directly through your health plan.

If you are not satisfied with the actions of your health insurer, you may contact the NY State Department of Financial Services at (800) 342-3736 for more information on filing a complaint

## **If You Disagree with this Decision (Appeal Rights)**

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your case was decided, the 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:

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).



- 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**

Your appeal of the insurer's termination of your enrollment in your QHP for non-payment of premiums, effective January 1, 2018, is **DISMISSED** as a non-appealable issue.

The January 30, 2018 eligibility determination, insofar as it begins your eligibility for APTC on March 1, 2018, is **AFFIRMED**.

The January 30, 2018 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your eligibility.

Your reenrollment in your QHP was 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).

If you wish, you may request an appeal of the termination of your enrollment for nonpayment of premiums by your QHP directly through your health plan.

If you are not satisfied with the actions of your health insurer, you may contact the NY State Department of Financial Services at (800) 342-3736 for more information on filing a complaint

## **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 मदद 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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