



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

## Notice of Decision

Decision Date: April 26, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000028436

[REDACTED]

[REDACTED]

On April 11, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 15, 2017 plan enrollment notice and January 13, 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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## Decision

Decision Date: April 26, 2018

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 NY State of Health (NYSOH) fail to terminate you and your spouse from your qualified health plan for non-payment for the month of January 2018?

Did NYSOH properly determine that your and your spouse's enrollment in your qualified health plan was effective January 1, 2018?

## Procedural History

On October 28, 2017 NYSOH issued a renewal notice stating that you and your spouse were eligible to purchase a qualified health plan at full cost, effective January 1, 2018. The notice directed you and your spouse to choose a health plan between November 16, 2017 and December 15, 2017, in order for your coverage to begin.

On December 15, 2017, NYSOH issued a plan enrollment notice, based on your December 14, 2017 plan selection, stating that you and your spouse were enrolled in a qualified health plan, effective January 1, 2018.

On January 12, 2018, NYSOH received your and your spouse's updated application for health insurance and selection for enrollment in a qualified health plan.

On January 13, 2018, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a qualified health plan at full cost through NYSOH, effective February 1, 2018.

Also on January 13, 2018, NYSOH issued a plan enrollment notice stating that you and your spouse remained enrolled in your qualified health plan, effective January 1, 2018.

On February 5, 2018, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination and plan enrollment notices insofar as they began your and your spouse's enrollment in a qualified health plan on February 1, 2018, and not January 1, 2018.

On April 11, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you gave permission for the Hearing Officer to listen to recordings of telephone calls you had with NYSOH. The record was developed during the hearing and closed after the telephone recordings were reviewed.

## **Findings of Fact**

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

- 1) You testified that you are seeking this appeal because you wish to terminate your and your spouse's enrollment in your qualified health plan for the month of January 2018.
- 2) You testified that you and your spouse did not make your premium payment to your qualified health plan by the [REDACTED] due date, and that a representative from the qualified health plan told you that you and your spouse would be disenrolled for non-payment for the month of January 2018, and directed you to contact NYSOH for assistance.
- 3) The NYSOH Appeals Unit reviewed the recording of the January 12, 2018 telephone call between you and a NYSOH representative.
  - a. During that call, you told the NYSOH representative that you and your spouse were disenrolled for non-payment from your qualified health plan.
  - b. The NYSOH representative assisted you with an updated application, you selected the same qualified health plan for your and your spouse's enrollment, and the NYSOH representative told you your start date would be February 1, 2018 because you did not pay your premium.

- 4) You testified that on [REDACTED], you and your spouse paid a premium payment to your qualified health plan with the intention that it be applied to your premium payment for the month of February 2018. You further testified that your qualified health plan accepted that payment for the month of January 2018.
- 5) You testified that you and your spouse paid out of pocket for medical expenses in January 2018, because you believed your coverage began February 1, 2018, and your qualified health plan will not refund you the premium payment you made in January 2018 unless your and your spouse's enrollment for that month is terminated.
- 6) The NYSOH Appeals Unit reviewed the recordings of the January 30, 2018 and January 31, 2018 telephone calls between you and NYSOH representatives.
  - a. During the January 30, 2018 and January 31, 2018 telephone calls, you told the NYSOH representatives that your qualified health plan told you that you and your spouse were disenrolled from your qualified health plan for the month of January 2018.
  - b. You stated that you made a premium payment to the qualified health plan on [REDACTED], which you intended to be applied toward your and your spouse's February 2018 premium, but that the qualified health plan accepted that payment for the month of January 2018, so you and your spouse remained enrolled in your plan for that month.
  - c. You stated that you and your spouse paid out of pocket for medical expenses in January 2018 because you believed your coverage began February 1, 2018.
  - d. You stated that because you and your spouse did not use your insurance in January 2018, and paid out of pocket for medical expenses, you want the qualified health plan to apply the premium payment you made on January 16, 2018 to another month.
  - e. You stated that the qualified health plan refused to do so and directed you to contact NYSOH.
- 7) You testified that you next paid a premium payment to your qualified health plan on [REDACTED] that was accepted for that month, and that you also made payments to your qualified health plan for the months of March 2018 and April 2018, all of which were accepted.

- 8) According to your NYSOH account, your and your spouse's qualified health plan did not initiate termination of coverage for non-payment of premiums for the month of January 2018, or at any time.

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, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) 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)).

### 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 first issue under review is whether NYSOH failed to terminate you and your spouse from your qualified health plan for non-payment for the month of January 2018.

You testified that you wish to terminate your and your spouse's enrollment in your qualified health plan for the month of January 2018.

The record reflects that you and your spouse were enrolled into a qualified health plan beginning January 1, 2018. You testified, and stated during the telephone calls between you and NYSOH, that you did not pay your and your spouse's premium payment to your qualified health plan by the [REDACTED] due date,

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and that a representative from the qualified health plan told you that you and your spouse would be disenrolled for non-payment for the month of January 2018. You subsequently made a premium payment to the qualified health plan on [REDACTED], which you intended to be applied toward your and your spouse's February 2018 premium. However, the qualified health plan accepted that payment for the month of January 2018, and you and your spouse remained enrolled in the qualified health plan for that month. The record reflects that the qualified health plan did not initiate termination of coverage for non-payment of premiums for the month of January 2018, or at any time. You testified that you have paid all your premiums to date.

You testified that you and your spouse paid out of pocket for medical expenses for the month of January 2018 because you did not believe you had health insurance for that month. You further testified that your plan will not refund your and your spouse's January 2018 premium payment unless your and your spouse's enrollment for that month is terminated, which is why you requested this appeal.

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 redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure to provide timely notice of an eligibility determination and (5) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to terminate enrollees for non-payment, to review a qualified health plan's decision to accept a premium payment late or the application of that late payment, we cannot reach the merits as to whether you and your spouse properly remained enrolled in your qualified health plan for the month of January 2018.

Therefore, your appeal of NYSOH's failure to terminate you and your spouse from your qualified health plan for non-payment is **DISMISSED** as a non-appealable issue.

However, your issue concerns a health insurer and/or payment, reimbursement, coverage, benefits, rates and premiums, you can contact NY Department of Financial Services at their Consumer Hotline at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30 PM); or locally to (212) 480-6400; or you can file a complaint at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>.

Your providers and/or the health plan may be able to assist you and your spouse with billing and reimbursement questions regarding out of pocket expenses incurred during the month of January 2018, and you should contact them directly.

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 second issue under review is whether NYSOH properly determined that you and your spouse's enrollment in your qualified health plan was effective January 1, 2018.

The record reflects that you and your spouse initially selected a qualified health plan for enrollment on December 14, 2017.

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 between the first day and fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

As you contacted NYSOH to enroll you and your spouse into a qualified health plan on December 14, 2017, the December 15, 2017 plan enrollment notice properly stated that your and your spouse's enrollment took effect the first day of the first following month after December 2017; that is, on January 1, 2018.

Therefore, the December 15, 2017 plan enrollment notice is **AFFIRMED**.

However, the record reflects that after the plan selection on December 14, 2017, you contacted NYSOH on January 12, 2018, updated your and your spouse's application for health insurance and selected the same qualified health plan for enrollment.

As you contacted NYSOH and selected a qualified health plan for you and your spouse on January 12, 2018, your and your spouse's enrollment as of the date of that application should have taken effect the first day of the first month following January 2018; that is, on February 1, 2018.

Therefore, the January 13, 2018 plan enrollment notice stating that you and your spouse were enrolled in a qualified health plan effective January 1, 2018 is **MODIFIED** to reflect a February 1, 2018 start date.

The modification of the January 13, 2018 notice to reflect a February 1, 2018 start date, does not disturb your and your spouse's enrollment in your qualified health plan for the month of January 2018 for the reasons set forth above.

## **Decision**

Your appeal of NYSOH's failure to terminate you and your spouse from your qualified health plan for non-payment is **DISMISSED** as a non-appealable issue.

The December 15, 2017 plan enrollment notice is **AFFIRMED**.



The January 13, 2018 plan enrollment notice is MODIFIED to reflect a February 1, 2018 start date.

**Effective Date of this Decision:** April 26, 2018

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

This decision does not change your and your spouse's eligibility or enrollment.

Your and your spouse's enrollment in your qualified health plan was effective January 1, 2018.

The modification of the January 13, 2018 notice to reflect a February 1, 2018 start date, does not disturb your and your spouse's enrollment in your qualified health plan for the month of January 2018.

### **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

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 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 NYSOH's failure to terminate you and your spouse from your qualified health plan for non-payment is **DISMISSED** as a non-appealable issue.

The December 15, 2017 plan enrollment notice is **AFFIRMED**.

The January 13, 2018 plan enrollment notice is **MODIFIED** to reflect a February 1, 2018 start date.

This decision does not change your and your spouse's eligibility and enrollment.

Your and your spouse's enrollment in your qualified health plan was effective January 1, 2018.

The modification of the January 13, 2018 notice to reflect a February 1, 2018 start date, does not disturb your and your spouse's enrollment in your qualified health plan for the month of January 2018.

## **Legal Authority**

We are issuing this determination in accordance with 45 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).

**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 مجاناً.

### বাংলা (Bengali)

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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।

### **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 bɛtumi ama wo obi a okyerɛ 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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