



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

Notice of Decision

Decision Date: May 1, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028927



Dear [REDACTED]

On April 10, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's February 14, 2018 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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Decision

Decision Date: May 1, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028927



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 your qualified health plan ended effective February 28, 2018?

Procedural History

On October 28, 2017, NYSOH issued a renewal notice stating you were eligible to buy a qualified health plan at full cost, effective January 1, 2018. The notice further stated you no longer qualified for advance payments of the premium tax credit as of December 31, 2017, and you would be enrolled in a Silver-level qualified health plan, effective January 1, 2018.

On November 17, 2017, NYSOH issued a plan enrollment notice confirming you were enrolled in a Silver-level qualified health plan for a cost of \$553.29 per month, effective January 1, 2018.

On December 16, 2017, NYSOH issued a plan enrollment notice confirming you were enrolled in a Silver-level qualified health plan, effective January 1, 2018.

On February 13, 2018, NYSOH received your request to end your health insurance enrollment. You were subsequently disenrolled effective March 1, 2018.

On February 13, 2018, you contacted the NYSOH Account Review Unit and appealed the date you were disenrolled from your qualified health plan,

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requesting the disenrollment from your qualified health plan be made effective January 1, 2018 instead of March 1, 2018.

On February 14, 2018, NYSOH issued a notice stating you were no longer eligible for health insurance, effective March 1, 2018. The notice stated you were not qualified to enroll through NYSOH because you no longer want to receive coverage.

Also on February 14, 2018, NYSOH issued a disenrollment notice stating your coverage in your Silver-level qualified health plan was ending on February 28, 2018.

On April 10, 2018, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. The record was developed during the hearing and held open until April 25, 2018, for you to provide supporting documentation and for the Hearing Officer to review any calls made during the month of January 2018.

As of the date of the scheduled close of the record, NYSOH's Appeals Unit did not receive any supporting documentation via fax from you and none were viewable in your NYSOH account. NYSOH further provided a response there were no calls found, which were made by you or your Application Counselor concerning your NYSOH account in the month of January 2018. The record was therefore considered complete and closed as of April 25, 2018.

Findings of Fact

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

- 1) Your NYSOH account shows you were redetermined eligible for a full cost qualified health plan and auto-enrolled in a plan starting January 1, 2018, for a cost of \$553.29.
- 2) Your NYSOH account shows you enrolled in a full cost Silver-level qualified health plan on December 15, 2017, online under your NYSOH ID: [REDACTED]. The events tab shows you updated your enrollment on this date.
- 3) You testified you were already auto-enrolled in a Silver-level health plan when you went online on December 15, 2017.
- 4) You testified that you contacted NYSOH to disenroll yourself from your qualified health plan through NYSOH the third week of January 2018.

- 5) The Hearing Officer requested NYSOH produce any calls received by you or your Application Counselor for your account in the month of January 2018. No calls were produced for this time period.
- 6) Your NYSOH account shows the first time a disenrollment was requested by you was on February 13, 2018.
- 7) You were disenrolled from your qualified health plan as of February 28, 2018.
- 8) You testified that you did not make a premium payment to your health plan for January 2018 or February 2018, and you are receiving requests to pay the premium for these months.
- 9) You testified that you did not use your qualified health plan in the months of January 2018 and February 2018.
- 10) You testified that you are seeking retroactive disenrollment from your qualified health plan effective January 1, 2018.

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

Applicable Law and Regulations

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)).

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)).

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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 issue under review is whether NYSOH properly determined that your enrollment in your qualified health plan ended effective February 28, 2018.

On October 28, 2017, NYSOH issued a renewal notice stating you were determined eligible to purchase a qualified health plan at full cost, effective January 1, 2018. The notice further stated you had been automatically enrolled in a qualified health plan as of January 1, 2018. The record shows you subsequently accessed your online account and updated your enrollment on December 15, 2017 using your NYSOH Screen ID: [REDACTED].

Your NYSOH account shows the first time a disenrollment was requested by you was on February 13, 2018. On February 14, 2018, NYSOH issue a disenrollment notice indicating you would be disenrolled from your qualified health plan effective February 28, 2018.

You testified that you are seeking retroactive disenrollment from your qualified health plan effective January 1, 2018.

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NYSOH must permit an enrollee to be retroactively disenroll 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 December 16, 2017 plan 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 December 16, 2017 plan enrollment notice was without your knowledge or consent.

According to your NYSOH account, your account was accessed on December 15, 2017 using your Screen ID and your enrollment was updated on this date. You testified you were already auto-enrolled in a Silver-level health plan when you went online on December 15, 2017. Since you testified to being auto-enrolled and the record reflects you accessed your online account and viewed and updated your enrollment, it is reasonable to conclude that you were aware of your enrollment. It is also reasonable to conclude that, as of December 15, 2017, you could have requested disenrollment or appealed the level of financial assistance you were determined eligible to receive.

Therefore, there is no basis to find that NYSOH must permit you to retroactively terminate or cancel your enrollment in a qualified health plan.

The record reflects that on February 13, 2018, you contacted NYSOH and requested that you be disenrolled from your qualified health plan as you no longer wanted to remain enrolled.

Enrollees must be allowed to terminate their coverage with a qualified health plan at the date they specify if they provide reasonable notice to NYSOH or to their health plan. Reasonable notice is defined as at least 14 days prior to the requested termination date. For a disenrollment date of January 1, 2018, you would have had to request disenrollment by December 17, 2017.

You testified that you contacted NYSOH prior to what the record shows as your first request of February 13, 2018. You testified that you called sometime in the third week of January 2018. The Hearing Officer requested NYSOH produce any calls received by you or your Application Counselor for your account in the month

of January 2018. No calls were produced for this time period. Therefore, an earlier request for disenrollment cannot be established.

NYSOH terminated your insurance coverage with your qualified health plan effective February 28, 2018, which is the last day of the month following your request on February 13, 2018.

Since you do not qualify to be retroactively disenrolled from your coverage and you did not provide reasonable notice to NYSOH, NYSOH properly determined that your disenrollment in your qualified health plan was effective February 28, 2018. Therefore, the February 14, 2018 disenrollment notice is **AFFIRMED**.

Decision

The February 14, 2018 disenrollment notice is **AFFIRMED**.

Effective Date of this Decision: May 1, 2018

How this Decision Affects Your Eligibility

This decision does not change your disenrollment date. Your enrollment in your qualified health plan began January 1, 2018, and ended as of February 28, 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:

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

The February 14, 2018 disenrollment notice is **AFFIRMED**.

This decision does not change your disenrollment date. Your enrollment in your qualified health plan began January 1, 2018, and ended as of February 28, 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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