



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

Notice of Decision

Decision Date: May 24, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029723



Dear [REDACTED]

On May 2, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's February 27, 2018 eligibility determination and disenrollment 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.

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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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:

Does NY State of Health (NYSOH) have jurisdiction to determine whether your health plan properly charged you for premiums in the month of January 2018 and February 2018?

Did NYSOH properly determine that your, your spouse, and your youngest child's (family) enrollment in your platinum-level qualified health plan (QHP) ended effective February 28, 2018?

Procedural History

On October 17, 2017, NYSOH issued a renewal notice stating that your family was eligible to enroll in a QHP at full cost, effective January 1, 2018. The notice stated that your family was re-enrolled into the same product that your family had before and that if you want to make a change, you must do so between November 16, 2017 and December 15, 2017.

No updates were made to your account by December 15, 2017.

On November 17, 2017, a plan enrollment notice was issued confirming that your family was enrolled in a platinum-level QHP with a premium of \$2,701.52 per month, and that your plan would start January 1, 2018.

On February 27, 2018, NYSOH issued an eligibility determination notice stating that your family was no longer eligible for health insurance through NYSOH.

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effective April 1, 2018, because your family no longer wanted to receive coverage.

Also on February 27, 2018, a disenrollment notice was issued stating your family's platinum-level QHP was terminated effective March 31, 2018, because your family was no longer eligible to enroll in health insurance through NYSOH.

On March 5, 2018, you spoke to NYSOH's Account Review Unit and requested an appeal of that disenrollment date insofar as your family's platinum-level QHP ended on March 31, 2018 and not December 31, 2017.

On May 2, 2018, you appeared at a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open until May 17, 2018, to allow you time to submit supporting documentation.

On May 11, 2018, you submitted an undated letter of attestation, your family's current insurance card, and proof of your premium payments to your family's health plan outside of NYSOH. These documents were made part of the record as "Appellant's [REDACTED]." The record closed that day.

Findings of Fact

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

- 1) According to your NYSOH account, on October 13, 2014, your account was systematically updated and an annual automatic renewal of your family's health plan was selected. Your family's QHP plan has been automatically renewed every year since that date.
- 2) According to your NYSOH account, your family's account was automatically updated on October 16, 2017 and your family was enrolled in the same platinum-level QHP, effective January 1, 2018 that your family had been enrolled in during 2017.
- 3) You testified that you had no idea that your family was enrolled in a platinum-level QHP because, although, you received the November 16, 2017 plan enrollment notice, you thought it was in error and figured the system would figure out you never re-enrolled in coverage.
- 4) You testified that upon reviewing your health insurance options, you determined that the cost of your platinum-level QHP was too expensive. You decided to obtain gold-level coverage directly through the QHP to save money. Your family's new coverage began as of March 1, 2018.

- 5) You testified that when you initially signed up for health insurance outside of NYSOH, your QHP advised you that you would not have to pay for January 2018 and February 2018. Because of this, you told your family not to see their doctors during those two months because you believed your family would not have coverage in January 2018 and February 2018.
- 6) According to your NYSOH account and testimony, you contacted NYSOH to disenroll your family from your platinum-level QHP through NYSOH on February 26, 2018. On that day, your family was terminated from your platinum-level QHP as of March 31, 2018.
- 7) According to the Notes History Tab in your NYSOH account, your family's coverage was "retro-term[ed] to 2/28/18" on March 12, 2018.
- 8) You submitted a letter of attestation stating that because you were given misinformation by the QHP's representative, you made payments for your platinum-level QHP in 2018. You were told you owed the December 2017 premium, when in fact, you had already paid. The premium you sent to your QHP was then applied to January 2018. You believe that you have a duplicate platinum payment which should be credited to your gold QHP account (see Appellant's [REDACTED]).

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 the Appeals Unit of NYSOH: (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, and (4) a failure by NYSOH to provide timely notice of an eligibility determination (45 CFR § 155.505).

Termination of a Qualified Health Plan

NYSOH must permit an enrollee to terminate his or her coverage with a QHP coverage, with appropriate notice to the NYSOH or QHP (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 QHP 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 QHP 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 QHP 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 QHP 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 QHP 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 NYSOH has jurisdiction to determine whether your family's QHP properly charged you for premiums in the month of January 2018 and February 2018.

You testified that when you initially signed up for health insurance outside of NYSOH, a representative from your QHP advised you that you would not have to pay for January 2018 and February 2018. As a result, you told your family not to see their doctors during those two months because you believed your family would not have coverage.

You further attested in a letter that, because you were given misinformation by the QHP's representative, you made payments for your platinum-level QHP in 2018. You were told you owed the December 2017 premium, which in fact you had already paid. The premium you sent to your QHP was then applied to January 2018. You believe you have a duplicate platinum payment that should be credited to your gold QHP account (see Appellant's [REDACTED]).

The New York State of Health 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, and (4) a failure by the Exchange to provide timely notice of an eligibility determination.

These issues, which relate to your health plan premiums payments and billing, are contractual in nature between you and the health plan and decided upon by your health plan. They are not issues that the NYSOH Appeals Unit is authorized to address. Since we cannot reach the merits as to whether your QHP properly charged you for premiums in the month of January 2018 and February 2018, your appeal of your health plan [over] charging you for premiums in the month of January 2018 and February 2018 is DISMISSED as a non-appealable issue.

However, you may contact your health plan directly regarding this matter or for other health care coverage questions.

To file a complaint against the insurance company, you can contact the Consumer Assistance Unit at the NYS Department of Financial Services 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>.

The remaining issue is whether NYSOH properly determined that your family's enrollment in your platinum-level QHP ended effective February 28, 2018.

On February 27, 2018, NYSOH issued a disenrollment notice indicating your family would be disenrolled from your platinum-level QHP effective March 31, 2018. Subsequently, NYSOH retroactively terminated your family from your platinum-level QHP on February 28, 2018. This retroactive disenrollment was a result of your family having coverage outside of NYSOH as of March 1, 2018.

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You testified that you are seeking retroactive disenrollment from family's QHP to December 31, 2017.

NYSOH must permit an enrollee to be retroactively disenroll from their QHP 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 QHP without their knowledge or consent by a third party. Such enrollee must request cancellation within 60 days of discovering the unintentional, inadvertent, or erroneous enrollment.

You testified that you had no idea that your family was enrolled in a platinum-level QHP because, although, you received the November 16, 2017 plan enrollment notice, you thought it was in error and figured the system would figure out you never re-enrolled in coverage.

However, the record reflects that your family's QHP has been automatically renewed every year since 2014, establishing a pattern of yearly automatic renewals. Therefore, your testimony that you were unaware that your family's QHP was automatically selected and renewed for 2018 is not credible. Further, since you testified that you received the November 16, 2017 plan enrollment notice, it is concluded that NYSOH properly notified you of your family's enrollment in your platinum-level QHP as of January 1, 2018.

As such, there is no indication in the record that your family's enrollment in your platinum-level QHP as confirmed in the November 16, 2017 plan enrollment notice was unintentional, inadvertent, or erroneous, nor was your family's enrollment in your platinum-level QHP 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 family's enrollment in your platinum-level QHP as confirmed in the November 16, 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 family's enrollment in your platinum-level QHP to December 31, 2017.

According to your NYSOH account and testimony, you first contacted NYSOH to disenroll your family from your platinum-level QHP through NYSOH on February 26, 2018.

Generally, enrollees must be allowed to terminate their coverage with a QHP 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.

Since your family does not qualify to be retroactively disenrolled from your QHP coverage and you did not provide reasonable notice to NYSOH for coverage to end as of December 31, 2017, NYSOH properly determined that your family's disenrollment from your platinum-level QHP was effective March 31, 2018.

However, in your case, because your family was eligible for and enrolled in health coverage outside of NYSOH as of March 1, 2018, NYSOH retroactively terminated your family's insurance coverage with your QHP effective February 28, 2018, which is the last day of the month following your February 26, 2018 request and before your family's gold-level coverage began.

Since your family does not qualify to be retroactively disenrolled any further from your platinum-level QHP coverage and you did not provide reasonable notice to NYSOH for coverage to end as of December 31, 2017, NYSOH properly determined that your family's disenrollment from your platinum-level QHP was effective February 28, 2018.

However, because NYSOH's February 27, 2018 disenrollment notice states that you were disenrolled effective March 31, 2018, it is MODIFIED to state that your family's coverage in your platinum-level QHP ended on February 28, 2018, to correspond with NYSOH's subsequent backdate of your family's disenrollment.

Likewise, the February 27, 2018 eligibility determination notice is MODIFIED to state that, effective March 1, 2018, your family was no longer qualify for health coverage through NYSOH.

According to your NYSOH account, your platinum-level QHP ended February 28, 2018. Therefore, no further action is required by NYSOH at this time.

Decision

Your appeal of your health plan charging you for premiums in the month of January 2018 and February 2018, is DISMISSED as a non-appealable issue.

The February 27, 2018 disenrollment notice is MODIFIED to state that your family's coverage in your platinum-level QHP ended on February 28, 2018.

The February 27, 2018 eligibility determination notice is MODIFIED to state that, effective March 1, 2018, your family no longer qualifies for health coverage through NYSOH.

No further action is required by NYSOH at this time.

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).

Effective Date of this Decision: May 24, 2018

How this Decision Affects Your Eligibility

By this Decision, your family's enrollment in your platinum-level QHP ended on 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:

- 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 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 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 your health plan [over] charging you for premiums in the month of January 2018 and February 2018, is DISMISSED as a non-appealable issue.

The February 27, 2018 disenrollment notice is MODIFIED to state that your family's coverage in your platinum-level QHP ended on February 28, 2018.

The February 27, 2018 eligibility determination notice is MODIFIED to state that, effective March 1, 2018, your family no longer qualifies for health coverage through NYSOH.

By this Decision, your family's enrollment in your platinum-level QHP ended on February 28, 2018.

No further action is required by NYSOH at this time.

Legal Authority

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

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 مجانًا.

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&etumi ama wo obi a okyerE 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.

אַײַדיש (Yiddish)

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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.