



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
PO Box 11729  
Albany, NY 12211

**Notice of Decision**

Decision Date: April 4, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000030419

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On April 2, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health’s March 15, 2018 eligibility determination 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
  - PO 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(b).

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).

This page intentionally left blank.



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
PO Box 11729  
Albany, NY 12211

## Decision

Decision Date: April 4, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000030419

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that you and your spouse did not qualify to enroll in a qualified health plan outside of the open enrollment period?

## Procedural History

On October 4, 2017, NYSOH received an update to your application for financial assistance with health insurance.

On October 5, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a qualified health plan (QHP) at full cost, effective November 1, 2017.

On October 6, 2017, NYSOH issued an enrollment notice confirming you and your spouse's enrollment in a Healthfirst Platinum Leaf, Platinum, ST, INN, Pediatric Dental, Dep25, Fitness & Wellness Rewards (Healthfirst Platinum) as of October 5, 2017, with such coverage having been in effect as of June 1, 2017, at a monthly premium of \$1,271.34.

On October 28, 2017, NYSOH issued a renewal and eligibility determination notice stating that based on the information you provided in your application on October 4, 2017, you and your spouse were found eligible to purchase a QHP at full cost, effective January 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).

On November 18, 2017, NYSOH issued an enrollment notice confirming the enrollment of you and your spouse in a Healthfirst Platinum as of November 17, 2017, with such coverage having been in effect as of January 1, 2018, at a monthly premium of \$1,630.18.

On December 1, 2017, NYSOH received a further update to your application for financial assistance with health insurance.

On December 2, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in a QHP at full cost, effective January 1, 2018.

On December 2, 2017, NYSOH issued an enrollment notice stating that you and your spouse were enrolled in Healthfirst Platinum as your QHP as of December 1, 2017, with such coverage to begin effective January 1, 2018, at a monthly premium of \$1,630.18.

On February 12, 2018, NYSOH issued a cancellation notice stating that the enrollment of you and your spouse under Healthfirst Platinum was terminated, effective January 1, 2018, because a premium payment had not been received by the health plan.

On February 26, 2018, NYSOH received an update to your application for health insurance.

On February 27, 2018, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a QHP, effective April 1, 2018; however, it further stated that you and your spouse may be able to enroll in coverage if you qualify for a special enrollment period.

On March 15, 2018, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a QHP at full cost, effective April 1, 2018. It further stated that you and your spouse did not qualify to select a health plan outside of the open enrollment period for 2018.

On March 19, 2018, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination insofar as you were not eligible to enroll in a health plan outside of the open enrollment period.

On March 27, 2018, NYSOH received a request for an expedited hearing. This request was granted on March 28, 2018.

On April 2, 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.

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).

## Findings of Fact

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

- 1) You and your spouse were enrolled in a Healthfirst Platinum as your QHP for the 2018 coverage year with a monthly premium responsibility of \$1,630.18, effective January 1, 2018.
- 2) You testified that you did not pay the premium due for the month of January 2018 for the Healthfirst Platinum plan because at the time, you had been seeking to enroll you and your spouse in a gold-level plan issued by Fidelis Care; however, you testified that you were prevented from doing so due to issues with your NYSOH online account.
- 3) You testified that the Healthfirst Platinum QHP monthly premium of \$1,630.18 was excessive, and you had been seeking to enroll at least your spouse into a Fidelis Care QHP since it provided gold-level coverage.
- 4) You testified that you contacted NYSOH on or about December 1, 2017 to change plans, but received an error message. A defect item, [REDACTED], was created by NYSOH on December 6, 2017 to attempt to resolve your inability to switch plans.
- 5) NYSOH records reflect that [REDACTED] was resolved on January 8, 2018. However, you testified, and NYSOH records reflect, that you were not contacted by NYSOH to inform you of the resolution of this defect.
- 6) You testified that you contacted NYSOH on January 17, 2018 to inquire about the status of the request to switch your spouse's health plan. You further testified that you attempted to switch your plan at that time, however, you were prevented from doing so since the coverage of you and your spouse in the Healthfirst Platinum QHP had already been cancelled as of January 1, 2018.
- 7) You and your spouse were disenrolled from the Healthfirst Platinum QHP, effective January 1, 2018.
- 8) On February 26, 2018, you contacted NYSOH to reenroll into a qualified health plan.
- 9) You testified that your spouse has been without health insurance since January 1, 2018, and that you were seeking for her enrollment to be reinstated effective January 1, 2018 due to the excessive medical costs you have incurred since that time.

10) You testified that since filing your application on December 1, 2017 there have been no other major changes to your household.

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

## **Applicable Law and Regulations**

### Enrollment in a Qualified Health Plan

NYSOH must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan and enrollees may change qualified health plans (45 CFR § 155.410(a)(1)).

For the benefit year beginning on January 1, 2018, the annual open enrollment period began on November 1, 2017, and extended through January 31, 2018 (45 CFR § 155.410(e)(2)).

### Special Enrollment Periods

After each open enrollment period ends, NYSOH provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a qualified health plan, and an enrollee may change their enrollment to another plan. This is generally permitted when one of the following triggering events occur:

- (1) The qualified individual or his or her dependent either:
  - (i) Loses minimum essential coverage.
  - (ii) Is enrolled in any non-calendar year group health plan or individual health insurance coverage, even if the qualified individual or his or her dependent has the option to renew such coverage.
  - (iii) Loses pregnancy-related coverage.
  - (iv) Loses medically needy coverage as described under section 1902(a)(10)(C) of the Social Security Act only once per calendar year.
- (2)(i) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care, or through a child support order or other court order.
  - (ii) the enrollee loses a dependent or is no longer considered a dependent through divorce or legal separation as defined by State

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).

law in the State in which the divorce or legal separation occurs, or if the enrollee, or his or her dependent, dies.

(3) The qualified individual, or his or her dependent, becomes newly eligible for enrollment in a qualified health plan because he or she gains citizenship, status as a national, or lawful present or is no longer incarcerated.

(4) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a qualified health plan is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, misconduct, or inaction of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities.

(5) The enrollee or, his or her dependent adequately demonstrates to NYSOH that the qualified health plan in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee;

(6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or change in eligibility for cost-sharing reductions.

(7) The qualified individual or enrollee, or his or her dependent, gains access to new qualified health plan as a result of a permanent move and either—

(i) Had minimum essential coverage for one or more days during the 60 days preceding the date of the permanent move, or

(ii) Was living outside of the United States or in a United States territory at the time of the permanent move;

(8) The qualified individual or dependent who gains or maintains status as an Indian may enroll in a qualified health plan or change from one plan to another, once per month.

(9) The qualified individual or enrollee, or his or her dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide;

(10) A qualified individual or enrollee—

(i) Is a victim of domestic abuse or spousal abandonment, including a dependent or unmarried victim within a household, is enrolled in

minimum essential coverage and seeks to enroll in coverage separate from the perpetrator of the abuse or abandonment; or

(ii) Is a dependent of a victim of domestic abuse or spousal abandonment, on the same application as the victim, may enroll in coverage at the same time as the victim;

(11) A qualified individual or dependent—

(i) Applies for coverage through NYSOH during the annual open enrollment period or due to a qualifying event, is assessed as potentially eligible for Medicaid or Child Health Plus and is determined ineligible for Medicaid or Child Health Plus either after open enrollment has ended or more than 60 days after the qualifying event; or

(ii) Applies for coverage at their Local Department of Social Services or Human Resources Administration during the annual open enrollment period, and is determined ineligible for Medicaid or Child Health Plus after open enrollment has ended;

(12) The qualified individual or enrollee, or his or her dependent, adequately demonstrates to NYSOH that a material error related to plan benefits, service area, or premium influenced the qualified individual's or enrollee's decision to purchase a qualified health plan; or

(13) At the option of NYSOH, the qualified individual provides satisfactory documentary evidence to verify his or her eligibility for an insurance affordability program or enrollment following termination of enrollment due to a failure to verify such status within 90 days. NYSOH has not elected to adopt this subsection at this time.

(45 CFR § 155.420(d)).

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to select a qualified health plan (45 CFR § 155.420(c)(1)).

However, a loss of health insurance coverage such as that referenced above does not include,

“voluntary termination of coverage or other loss due to—

(1) Failure to pay premiums on a timely basis, including COBRA premiums prior to expiration of COBRA coverage, or



(2) Situations allowing for a rescission as specified in 45 CFR [§] 147.128” such as failure to comply with other requirements (45 CFR § 147.128(b))

(45 CFR § 155.420(e)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you and your spouse did not qualify to enroll in a qualified health plan outside of the open enrollment period.

Your NYSOH account reflects that, based on an application update NYSOH received on December 1, 2017, you and your spouse were found eligible to enroll in a QHP at full cost. You and your spouse were enrolled in a Healthfirst Platinum as your QHP for the 2018 coverage year with a monthly premium responsibility of \$1,630.18, effective January 1, 2018.

You credibly testified, and your NYSOH account reflects, that between December 6, 2017 and your application update on February 26, 2018, you had attempted to switch the QHP selection for you and your spouse from the Healthfirst Platinum plan to a gold-level plan issued by Fidelis Care, but were prevented from doing so due to a system defect.

A defect item, [REDACTED], was created by NYSOH on December 6, 2017 to attempt to resolve your inability to switch plans. NYSOH records reflect that this issue was ultimately resolved on January 8, 2018, but there is no evidence in the record that NYSOH informed you of this resolution until you had contacted NYSOH after the open enrollment period had ended.

A special enrollment period can be granted if a qualified individual’s enrollment or non-enrollment in a qualified health plan is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, misconduct, or inaction of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities.

Since you and your spouse were qualified individuals who had made efforts to switch your QHP within the open enrollment period, but NYSOH’s computer system would not allow you to proceed with your plan selection, and the record reflects you were not informed of the resolution of the defect before the end of the open enrollment period, a special enrollment period should have been granted effective January 1, 2018.

Accordingly, the March 15, 2018 eligibility determination notice is MODIFIED to state that you and your spouse were eligible to enroll in a QHP at full cost,

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 January 1, 2018, and you were eligible for a special enrollment period as of January 1, 2018.

Your case is RETURNED to NYSOH to assist you in enrolling both you and your spouse in a QHP as of January 1, 2018, if you so desire.

## **Decision**

The March 15, 2018 eligibility determination notice is MODIFIED to state that you and your spouse were eligible to enroll in a QHP at full cost, effective January 1, 2018, and you were eligible for a special enrollment period as of January 1, 2018.

Your case is RETURNED to NYSOH to assist you in enrolling both you and your spouse in a QHP as of January 1, 2018, if you so desire.

**Effective Date of this Decision:** April 4, 2018

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

You and your spouse qualify for a special enrollment period as of January 1, 2018.

NYSOH will facilitate the enrollment of you and your spouse in a QHP with such coverage becoming effective January 1, 2018.

You will be responsible for any premium amounts due relating to the reinstatement of coverage for you and your spouse.

## **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:

- 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  
PO Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

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).

## **Summary**

The March 15, 2018 eligibility determination notice is MODIFIED to state that you and your spouse were eligible to enroll in a QHP at full cost, effective January 1, 2018, and you were eligible for a special enrollment period as of January 1, 2018.

Your case is RETURNED to NYSOH to assist you in enrolling both you and your spouse in a QHP as of January 1, 2018, if you so desire.

You and your spouse qualify for a special enrollment period as of January 1, 2018.

NYSOH will facilitate the enrollment of you and your spouse in a QHP with such coverage becoming effective January 1, 2018.

You will be responsible for any premium amounts due relating to the reinstatement of coverage for you and your spouse.

## **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**

[REDACTED]  
[REDACTED]  
[REDACTED]

## **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 مجانًا.

### **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।

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).

## **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&btumi 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 איך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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).