



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

Notice of Decision

Decision Date: March 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011556

[REDACTED]

Dear [REDACTED]

On February 8, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 15, 2015 eligibility determination, April 16, 2015 enrollment notice, and the discontinuance of your qualified health plan for nonpayment of premiums.

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 Date: March 30, 2017

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:

Was your appeal of the NY State of Health's April 15, 2015 eligibility determination and April 16, 2015 enrollment notices timely?

Were you properly disenrolled from your qualified health plan in 2015 for nonpayment of premiums?

Procedural History

On December 9, 2014, New York State of Health (NYSOH) issued an eligibility determination notice stating that you were eligible to receive up to \$252.00 monthly of advance premium tax credit (APTC) and cost-sharing reductions, effective as of January 1, 2015.

On December 11, 2014, NYSOH issued an enrollment notice confirming that as of December 10, 2014, you were enrolled in a qualified health plan (QHP), with a premium responsibility of \$292.76, effective as early as January 1, 2015.

On April 14, 2015, your NYSOH was systemically updated.

On April 15, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a QHP at full cost through NYSOH, effective as of May 1, 2015. The notice stated that NYSOH sent you notices about your eligibility and coverage by U.S. mail to the mailing address provided in your account. However, the notices were returned to NYSOH as deliverable.

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On April 16, 2015, NYSOH issued an enrollment notice confirming that as of April 15, 2015, you were enrolled in a QHP, with a premium responsibility of \$544.76, effective as early as January 1, 2015.

On November 12, 2015, your NYSOH account was updated.

On November 13, 2015, NYSOH issued an eligibility determination notice stating that you were newly conditionally eligible to receive up to \$268.00 monthly of APTC and cost-sharing reductions, effective as of December 1, 2015.

On December 4, 2015, NYSOH issued a disenrollment notice stating, in relevant part, that your QHP coverage would end effective December 31, 2015.

On August 19, 2016, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as: (1) The discontinuance of your APTC effective April 30, 2015; (2) The termination of your QHP for failing to pay health insurance premiums effective June 30, 2015.

On February 8, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, and the record was left open until February 15, 2016 to allow you to submit additional documentation to NYSOH Appeals Unit.

On February 9, 2017, you faxed twenty-four pages of documents to NYSOH Appeals Unit. Those documents will be referred to as "Appellant Exhibit A," and have been incorporated into the record.

On February 10, 2017, you faxed three-pages of documents to NYSOH Appeals Unit. Those documents will be referred to as "Appellant Exhibit B," and have been incorporated into the record.

On February 14, 2017, you faxed two-pages of documents to NYSOH Appeals Unit. Those documents will be referred to as "Appellant Exhibit C," and have been incorporated into the record.

The record is now complete and closed.

Findings of Fact

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

- 1) Per your NYSOH account and testimony, you were enrolled in a QHP, through UnitedHealthcare, in 2015 with an enrollment start date of January 1, 2015.

- 2) Per your NYSOH account, you were determined eligible to receive up to \$252.00 monthly of APTC and cost-sharing reductions effective January 1, 2015.
- 3) On December 25, 2014, UnitedHealthcare generated a computerized receipt indicating that you had a credit of \$2,579.04 toward your health insurance premiums (Appellant Exhibit A pgs. 2, 6).
- 4) Per your NYSOH account, [REDACTED] is your residence and your mailing address.
- 5) You testified that [REDACTED] is your current address and has been your address for forty years.
- 6) Per your account, on January 8, 2015 and February 6, 2015 notices that were issued to your mailing address were sent back to NYSOH as undeliverable because you were "TEMPORARILY AWAY" ([REDACTED]).
- 7) On April 15, 2015 and April 16, 2015 NYSOH issued notices stating that you were eligible to purchase a QHP at full cost and enrolled in a QHP with a premium responsibility of \$544.76 ([REDACTED]). However, on April 22, 2015, those notices were returned to NYSOH as undeliverable because you were "TEMPORARILY AWAY" ([REDACTED]).
- 8) On July 9, 2015, UnitedHealthcare issued you a letter stating that you owe \$2,049.32 in health insurance premiums (Appellant Exhibit A pgs. 2, 8-9).
- 9) You testified you had an emergency [REDACTED] procedure in August 2015 and approximately [REDACTED] follow-up procedures through December 31, 2015, that were all approved by UnitedHealthcare.
- 10) UnitedHealthcare issued you a September 2015 health insurance premium billing statement that you had a credit of \$415.28 on your account (Appellant Exhibit A pgs. 12).
- 11) On October 6, 2015; October 16, 2015; and October 19, 2015, UnitedHealthcare issued notices to three of your medical providers stating that you were not current with your premium payments. The notices stated that if payment was not received within the grace period, the claims would be denied and the policy terminated (Appellant Exhibit A [REDACTED]).

- 12) On October 16, 2015 and October 26, 2015, you issued checks in the amounts of \$1,000.00 and \$700.00 to UnitedHealthcare. The checks were cashed and posted to your bank account on October 22, 2015 and October 30, 2015 (Appellant Exhibit A [REDACTED]).
- 13) You testified that you first found out that your UnitedHealthcare health plan had been terminated in 2015 when you received a notice from UnitedHealthcare on February 25, 2016, denying payment for two [REDACTED] [REDACTED] surgeries that were performed on October 8, 2015 (Appellant Exhibit A [REDACTED]).
- 14) You testified that you were notified by a representative from UnitedHealthcare that your coverage had been terminated June 30, 2015.
- 15) You testified that you never received a disenrollment notice from UnitedHealthcare or NYSOH.
- 16) You testified you have between \$15,000.00 and \$22,000.00 in outstanding bills from medical procedures performed between October 1, 2015 through December 31, 2015 because your health plan was terminated.
- 17) On December 14, 2015; March 16, 2016; and August 17, 2016, UnitedHealthcare has issued you checks to refund the credit on your account (Appellant Exhibit A [REDACTED]; Appellant Exhibit B [REDACTED]).
- 18) On January 24, 2017, NYSOH uploaded an evidence packet to your account in anticipation of your telephone hearing ([REDACTED]). Per the Appeal Summary, on August 19, 2016, you contacted NYSOH to submit a complaint and filed an appeal ([REDACTED]). The complaint states in relevant part:

The appellant was subsequently terminated for non-payment effective 6/30/2015. On 11/12/2015, the appellant contacted the Marketplace to attempt to re-enroll in coverage. The appellant was unable to enroll back into coverage due to it being outside of Open Enrollment and not having a qualifying life event. The appellant, [REDACTED] is disputing the inability to enroll in coverage for the remainder of 2015; requesting a reinstatement be made available so that enrollment can occur.

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

Applicable Law and Regulations

Valid Appeal Requests

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; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505, 45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(1)).

Legal Analysis

The first issue under review is whether your appeal of NYSOH's April 15, 2015 eligibility determination and April 16, 2015, enrollment notices was timely.

On April 15, 2015 and April 16, 2015 NYSOH issued notices stating that you were eligible to purchase a QHP at full cost and enrolled in a QHP with a premium responsibility of \$544.76 (see [REDACTED]).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

The record reflects that the first time you contacted NYSOH to file a complaint and an appeal regarding the discontinuance of your health coverage and financial assistance was on August 19, 2016.

For an appeal to have been valid on the issue of NYSOH determining you eligible to purchase a QHP at full cost and enrolled in a QHP for a monthly premium of \$544.76, an appeal should have been filed before June 16, 2015. Per the credible evidence in the record, you did not contact NYSOH to file a complaint or appeal until August 19, 2016, well after the 60-day time period to file a formal appeal.

You testified that you never received any notice from NYSOH stating that your financial assistance would be discontinued. On April 22, 2015, the April 15, 2015 and April 16, 2015, notices that were issued by NYSOH were as undeliverable

because you were “TEMPORARILY AWAY” (see [REDACTED]).

However, the record reflects that [REDACTED] [REDACTED] has been the only residence and mailing address listed in your NYSOH account. Furthermore, you testified that [REDACTED] [REDACTED] is your current address and has been your address for forty years. Therefore, NYSOH has provided proper notice of the discontinuance of your financial assistance.

Since there has been no timely appeal request of the April 15, 2015 eligibility determination and April 16, 2015 enrollment notices, the appeal is DISMISSED.

The second issue under review is whether your qualified health plan was properly discontinued for non-payment of premiums.

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 the Exchange 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)).

You testified that you were notified by a UnitedHealthcare representative that your coverage ended on June 30, 2015. Furthermore, the complaint filed with NYSOH on August 19, 2016, reflects that you were terminated on that date for non-payment of premiums. Based on the available record, the issue relates to the payment of health insurance premiums, which is not an issue NYSOH Appeals Unit has jurisdiction to address. Therefore, your appeal is DISMISSED.

Your case is RETURNED to NYSOH’s Plan Management Unit to further investigate whether you were in fact enrolled in a QHP from October 1, 2015 through December 31, 2015.

Decision

Your appeal of the April 15, 2015 eligibility determination and April 16, 2015 enrollment notices was untimely, and is DISMISSED.

Your appeal regarding the disenrollment of your qualified health plan in 2015 for non-payment of premiums is not within the jurisdiction of NYSOH, and is DISMISSED.

Your case is RETURNED to NYSOH's Plan Management Unit to further investigate whether you were in fact enrolled in a QHP from October 1, 2015 through December 31, 2015.

Effective Date of this Decision: March 30, 2017

How this Decision Affects Your Eligibility

This decision does not change your eligibility for or enrollment in a qualified health plan in 2015.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services 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 U.S. Department of Health and Human Services. 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 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:

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- By fax: 1-855-900-5557

Summary

Your appeal of the April 15, 2015 eligibility determination and April 16, 2015 enrollment notices was untimely, and is DISMISSED.

Your appeal regarding the disenrollment of your qualified health plan in 2015 for non-payment of premiums is not within the jurisdiction of NYSOH, and is DISMISSED.

Your case is RETURNED to NYSOH's Plan Management Unit to further investigate whether you were in fact enrolled in a QHP from October 1, 2015 through December 31, 2015.

This decision does not change your eligibility for or enrollment in a qualified health plan in 2015.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

