



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

Notice of Decision

Decision Date: May 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013442

[REDACTED]

[REDACTED]

Dear [REDACTED],

On May 5, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 3, 2016 disenrollment notice, October 24, 2016 eligibility determination, November 23, 2016 eligibility determination, and December 10, 2016 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 NY State of Health 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.

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NY State of Health Account ID: [REDACTED]
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[REDACTED]

[REDACTED]

Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health properly determine that your spouse's eligibility for and enrollment in a qualified health plan ended effective October 31, 2016?

Did NY State of Health properly determine that your spouse's eligibility for reenrollment in a qualified health plan and the application of advance payments of the premium tax credit was effective January 1, 2017 and that your spouse's reenrollment in a qualified health plan was effective January 1, 2017?

Procedural History

On June 27, 2016, you updated your household's application for financial assistance with health insurance.

On June 28, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination stating that your spouse was conditionally eligible to receive up to \$202.00 per month in advance premium tax credits (APTC) and cost sharing reductions if she selected a silver level qualified health plan for enrollment, effective August 1, 2016. The notice further requested that your spouse provide

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documentation confirming her citizenship status and household income before September 25, 2016.

Also on June 28, 2016, NYSOH issued a notice confirming your spouse's enrollment in a platinum level qualified health plan with APTC, effective July 1, 2016.

On October 3, 2016, NYSOH issued a disenrollment notice stating that your spouse's enrollment in her qualified health plan would end effective October 31, 2016. This was because she was no longer eligible to remain enrolled in health insurance through NYSOH.

On October 24, 2016, NYSOH issued an eligibility determination notice stating that your spouse was not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your spouse also could not enroll in a qualified health plan at full cost because your spouse had not confirmed her citizenship status within the required timeframe. Your spouse's eligibility for coverage ended effective October 31, 2016.

On November 7, 2016, your spouse's US passport was uploaded to your NYSOH account.

On November 16, 2016, your and your spouse's jointly filed 2015 tax return was uploaded to your NYSOH account.

On November 21, 2016, NYSOH redetermined your household's application for financial assistance. That day, a preliminary eligibility determination was prepared stating that your spouse was eligible to receive up to \$271.00 per month in APTC and eligible to receive cost-sharing reductions if she enrolled in a silver level qualified health plan, effective January 1, 2017.

On November 22, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your spouse's qualified health plan for the months of November 2016 and December 2016.

On November 23, 2016, NYSOH issued a notice of eligibility determination, based on your November 21, 2016 application, stating that your spouse was eligible for a limited time to receive up to \$271.00 per month in APTC and cost sharing reductions if she selected a silver level qualified health plan for enrollment, effective January 1, 2017. The notice further requested that your spouse provide documentation confirming her citizenship status and household income before February 19, 2017.

On December 9, 2016, you updated your household's application for health insurance through NYSOH from a financial assistance application to a non-financial assistance application.

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On December 10, 2016, NYSOH issued a notice of eligibility determination stating that your spouse was newly conditionally eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2017. The notice further requested that your spouse provide documentation confirming her citizenship status before February 19, 2017.

Also on December 10, 2016, NYSOH issued an enrollment notice stating that your spouse was enrolled in a qualified health plan based on your plan selection on December 9, 2016, with a plan enrollment start date of January 1, 2017.

On December 11, 2016, NYSOH issued a notice of eligibility determination stating that your spouse was eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2017.

On May 4, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, [REDACTED] appeared as your attorney. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) You testified, and the record reflects, that you receive all of your notices from NYSOH via regular mail.
- 2) You testified that you believe you did receive the June 28, 2016 notice stating that your spouse's eligibility was only conditional and that you needed to provide documentation of your spouse's citizenship status and household income. However, you did not understand that you needed to take any additional action based on this notice.
- 3) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 4) Your NYSOH account indicates that on October 2, 2016 your application was run and your spouse was found no longer eligible to enroll in health insurance through NYSOH as of October 31, 2016.
- 5) You testified that you did not know that you needed to submit documentation of your spouse's citizenship status or your household income until you received the disenrollment notice in the beginning of November 2016.

- 6) Your attorney stated that you first submitted your spouse's citizenship documentation and household income documentation on November 7, 2016.
- 7) Your NYSOH account reflects that on November 7, 2016 your spouse's US passport was uploaded to your NYSOH account and that her certificate of naturalization was uploaded to your NYSOH account on November 23, 2016.
- 8) You testified that your spouse became a naturalized citizen approximately 10 years ago.
- 9) Your NYSOH account reflects that your and your spouse's jointly filed 2015 tax return was uploaded to your NYSOH account on November 16, 2016.
- 10) You testified that you selected a new plan for your spouse's enrollment in December 2016. Your NYSOH account reflects that this selection took place on December 9, 2016.
- 11) You testified that you are seeking for your spouse to be reinstated into her qualified health plan for November 2016 and December 2016 as she was undergoing [REDACTED] during November 2016.

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

Applicable Law and Regulations

Citizenship and Immigration Status

To enroll in a qualified health plan through NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence, from the date the notice of

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inconsistency is received by the applicant. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5-day period. (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

Income Verification

APTC are generally available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

An applicant is required to attest to their household's projected annual income for purposes of determining their eligibility for APTC (45 CFR § 155.320(c)(3)(ii)(B)). For all individuals whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security in order to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant in order to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the month following the date of the notice (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

Redetermination During a Benefit Year

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When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of advance payments of the premium tax credit (APTC) for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

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 properly determined that your spouse was no longer eligible to enroll in a qualified health plan through NYSOH, effective October 31, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that their citizenship status is satisfactory.

If NYSOH cannot verify an individual's citizenship status, it must provide the individual with notice of the inconsistency. Additionally, an individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to their household's projected annual income. For individuals seeking APTC, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistencies. For purposes of verifying citizenship, notice is considered received 5 days after the date on the notice.

In the eligibility determination issued on June 28, 2016, you were advised that your spouse's eligibility was only conditional, and that you needed to confirm her citizenship status and income before September 25, 2016.

The record reflects that NYSOH did not receive the requested citizenship documentation or income documentation before the deadline.

You testified that you believe that you did receive the June 28, 2016 notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm your spouse's citizenship status and the income you listed in the account.

Therefore, NYSOH properly notified you of an inconsistency in your account and you did not submit the requested citizenship and income documentation before the deadline.

If NYSOH remains unable to verify the inconsistency after the 90-day period ends, then it must determine the applicant's eligibility based on the information available in the data sources.

Since the requested documentation was not received within the 90-day period, NYSOH was required to redetermine your spouse's eligibility without verification of her citizenship status. As a result, NYSOH properly determined that your spouse could not enroll in a qualified health plan through NYSOH effective November 1, 2016 because you did not provide the information requested by NYSOH.

Therefore, NYSOH's October 3, 2016 disenrollment notice and October 24, 2016 eligibility determination notice are correct and are AFFIRMED.

The second issue under review is whether NYSOH properly determined that your spouse's eligibility for reenrollment in a qualified health plan and the application of advance payments of the premium tax credit was effective no earlier than January 1, 2017 and that your spouse's reenrollment in a qualified health plan was effective January 1, 2017.

The record shows that on November 7, 2016 citizenship documentation for your spouse was uploaded to your NYSOH account and on November 16, 2016 income documentation for your household was uploaded to your NYSOH account.

On November 21, 2016, NYSOH redetermined your household's eligibility for financial assistance with health insurance. This resulted in your spouse being found conditionally eligible for APTC of up to \$271.00 per month and cost-sharing reductions, effective January 1, 2017.

The record further reflects that on December 9, 2016 you updated information in your NYSOH account and submitted a request to enroll your spouse in a qualified health plan. On December 10, 2016, NYSOH issued an enrollment confirmation notice stating that your spouse's enrollment in her qualified health plan was effective January 1, 2017.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month. When an individual changes information in their application after the 15th of any month, NYSOH will make the redetermination that results from the change effective the first day of the second following month.

Additionally, 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 from the first day to and including fifteenth day of a month goes into effect on the first day of the following month.

Therefore, NYSOH's November 23, 2016 eligibility determination notice and December 10, 2016 enrollment confirmation notice are AFFIRMED because they properly began your spouse's eligibility for enrollment in a qualified health plan as well as eligibility for APTC and enrollment in a qualified health plan on January 1, 2017.

Decision

The October 3, 2016 disenrollment notice is AFFIRMED.

The October 24, 2016 notice of eligibility determination is AFFIRMED.

The November 23, 2016 notice of eligibility determination is AFFIRMED.

The December 10, 2016 enrollment notice is AFFIRMED.

Effective Date of this Decision: May 10, 2017

How this Decision Affects Your Eligibility

NYSOH properly found your spouse ineligible to enroll in a qualified health plan because you did not submit proof of her citizenship status.

Your spouse's enrollment in her qualified health plan began as of January 1, 2017.

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

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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):

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- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
NY State of Health Appeals
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- By fax: 1-855-900-5557

Summary

The October 3, 2016 disenrollment notice is AFFIRMED.

The October 24, 2016 notice of eligibility determination is AFFIRMED. NYSOH properly found your spouse ineligible to enroll in a qualified health plan because you did not submit proof of her citizenship status.

The November 23, 2016 notice of eligibility determination is AFFIRMED.

The December 10, 2016 enrollment notice is AFFIRMED.

Your spouse's enrollment in her qualified health plan began as of January 1, 2017.

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]

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. 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.

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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