



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

Notice of Decision

Decision Date: April 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013463

[REDACTED]

Dear [REDACTED],

On March 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 10, 2016 eligibility redetermination 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).

This page intentionally left blank.



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

Decision

Decision Date: April 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013463



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 you and your spouse were no longer eligible to remain enrolled in a qualified health plan effective November 30, 2016?

Procedural History

On August 10, 2016, NYSOH issued an eligibility redetermination notice stating that you were conditionally eligible to purchase a qualified health plan (QHP) at full cost and your spouse was eligible to purchase a QHP at full cost, effective September 1, 2016. The notice further directed you to provide documentation confirming your citizenship status and Social Security number (SSN) before November 3, 2016, or your eligibility for coverage might end.

On August 16, 2016, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. You were requested to send more proof regarding your citizenship status and provide proof of your SSN by November 3, 2016.

On August 19, 2016, NYSOH issued a notice confirming your and your spouse's enrollment in bronze-level QHP, effective September 1, 2016.

On October 19, 2016, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that based on information from federal and state sources, NYSOH could not decide whether

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).

you and your spouse would qualify for health insurance and that you needed to update your account by December 15, 2016 or your coverage may not be continued.

On November 10, 2016, NYSOH issued an eligibility redetermination notice stating that you were no longer eligible for health insurance through NYSOH because you did not provide information to confirm your citizenship status or SSN. This eligibility was effective December 1, 2016.

Also on November 10, 2016, issued an eligibility redetermination notice that stated your spouse may be eligible to purchase a QHP at full cost through NYSOH if she qualified for a Special Enrollment Period (SEP). Her eligibility was effective December 1, 2016.

Also on November 10, 2016, NYSOH issued a disenrollment notice stating that your and your spouse's bronze-level QHP would end November 30, 2016. This was because you were no longer eligible to enroll in health insurance through NYSOH.

On November 16, 2016, NYSOH issued an eligibility redetermination notice stating that you and your spouse do not qualify for a SEP outside of the open enrollment period for 2016. This eligibility was effective December 1, 2016.

On November 22, 2016, you updated your application for health insurance. That day, a preliminary eligibility redetermination was prepared finding you and your spouse eligible to purchase a QHP at full cost through NYSOH, effective January 1, 2017.

Also on November 22, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your and your spouse's QHP effective November 30, 2016 and the gap in health coverage for the month of December 2016.

On November 23, 2016, NYSOH issued an eligibility redetermination notice, consistent with its November 22, 2016 preliminary redetermination, stating that you and your spouse were eligible to purchase a QHP at full cost, effective January 1, 2017. The notice further directed you to provide documentation confirming your citizenship status and SSN before February 13, 2017, or your eligibility for coverage might end.

Also on November 23, 2016, NYSOH issue an enrollment confirmation notice, based on your plan selection on November 22, 2016, stating that you and your spouse were enrolled in a bronze-level QHP effective January 1, 2017.

On March 6, 2017, 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) According to your NYSOH account and your testimony, you receive all of your notices from NYSOH by electronic mail.
- 2) According to your NYSOH account and your testimony, you submitted copies of your birth certificate and Social Security card on August 9, 2016.
- 3) On August 15, 2016, NYSOH reviewed the submitted documents. The birth certificate was deemed invalid proof of citizenship. A manual notice was issued by NYSOH on August 16, 2016 stating that the documents did not confirm the information in your application. You were requested to submit additional documentation on proof of citizenship and SSN. The notice referred you to an attached list of acceptable documents.
- 4) You testified that you did not receive an email alert about or the actual August 16, 2016 notice stating that the documents you submitted were insufficient and that you needed to submit more proof of citizenship and SSN by November 3, 2016.
- 5) According to your NYSOH account, your name was listed on the applications dated August 1, 2016, August 5, 2016, August 9, 2016, November 9, 2016 and November 16, 2016 was [REDACTED]
- 6) The Social Security card and the birth certificate you submitted on August 9, 2016 both listed your name as [REDACTED].
- 7) The SSN listed on your applications and on the Social Security card you submitted on August 9, 2016 are the same.
- 8) You testified that, after you got married, you and your spouse combined your names. Your name changed to [REDACTED] and that is what is reflected on your applications for health insurance. You testified that your spouse's name is correctly listed in all the applications for health insurance.
- 9) You testified that you did not receive any email alerts or the actual November 10, 2016 eligibility redetermination and disenrollment notices.

- 10) You testified that you learned your and your spouse's bronze-level QHP had ended when you were contacted by the plan in November 2016.
- 11) You testified that you and your spouse did not incur any medical costs during the month of December 2016 during the gap in coverage.
- 12) You testified that you are concerned about a tax penalty for not having health coverage during the month of December 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 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)).

Requirement to Provide Social Security Number

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

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 NYSOH is unable to validate an applicant's Social Security number, NYSOH must provide the applicant 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. Notice is considered received five days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five-day period. (45 CFR § 155.315(b)(2)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account within 1 day of the notice being generated (45 CFR §155.230(d); 42 CFR §435.918(b)(3) and (4)). If an electronic notice is undeliverable, NYSOH must send a notice by regular mail within three business days of the date of a failed electronic communication (42 CFR §435.918(b)(5)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse were no longer eligible to enroll in a QHP plan through NYSOH, effective November 30, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that they have valid citizenship status and a valid SSN.

If NYSOH cannot verify an individual's citizenship status and SSN, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency. For purposes of confirming proof of citizenship and SSN, notice is considered received 5 days after the date on the notice.

In the eligibility determinations issued on August 10, 2016 you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status and SSN before November 3, 2016.

According to your NYSOH account, you uploaded a copy of your Social Security card and birth certificate on August 9, 2016.

According to your NYSOH account, the birth certificate was reviewed on August 15, 2016 and deemed invalid proof of citizenship. On August 16, 2016, NYSOH issued a notice stating the documentation you submitted was reviewed but did

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).

not confirm the information in your account. The notice referred you to an attached list of acceptable documentation. The notice also stated you needed to provide proof of your SSN. These documents needed to be submitted by November 3, 2016.

According to your NYSOH account, you did not submit any further documents before November 3, 2016.

On November 10, 2016, NYSOH issued an eligibility redetermination, based on a November 9, 2016 system update, stating you were no longer eligible for health insurance through NYSOH because you had not confirmed your citizenship status and SSN. As the account holder, your ineligibility for health insurance also effected your spouse's eligibility to purchase a QHP at full cost. The November 10, 2016 disenrollment notice confirmed your and your spouse's disenrollment from your bronze-level QHP, effective November 30, 2016. This was because you alone were no longer eligible to enroll in health insurance through NYSOH.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive the August 16, 2016 electronic alert stating the documents you had submitted were insufficient and that you needed to submit additional proof of citizenship and proof of SSN. You testified that you thought by submitting your Social Security card and birth certificate on August 9, 2016 that you had satisfied these requirements. There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit additional documentation, or that it failed and the notice was sent to you by regular mail.

You also testified that you did not receive the November 10, 2016 notices stating that you and your spouse were no longer eligible for health insurance and that your coverage in your bronze-level QHP was being terminated effective November 30, 2016.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit additional documentation as proof of your citizenship and SSN. Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the November 10, 2016 eligibility determination and enrollment notices stating that you and your spouse were no longer eligible for failure to submit the required documentation by the November 3, 2016 deadline and were disenrolled from your bronze-level QHP, effective November 30, 2016, are **RESCINDED**.

At your option, NYSOH will reinstate your and your spouse's coverage in your bronze-level QHP for the month of December 2016. Therefore, your case is **RETURNED** to NYSOH to contact you regarding such option, even though you testified that you and your spouse did not incur any medical bills and are only concerned about being exposed to an IRS tax penalty.

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).

Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. You might qualify for a health coverage exemption in 2016 if you didn't have health coverage while you were waiting for an appeal decision about coverage eligibility **and** your appeal was eventually successful (emphasis added).

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

You will find the information you need to claim the exemption due to an appeal decision at <https://www.healthcare.gov/exemptions-tool/#/results/2016/details/eligible-based-on-appeal>. You can also call 1-800-318-2596.

Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word "pending" in column "c" and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

Decision

The November 10, 2016 eligibility determination notices are RESCINDED.

At your option, NYSOH will reinstate your and your spouse's coverage in your bronze-level QHP for the month of December 2016. Therefore, your case is RETURNED to NYSOH to contact you regarding such option. If you choose to have your bronze-level QHP reinstated for December 2016, you will be responsible to pay the insurance premium for that month.

Effective Date of this Decision: April 24, 2017

How this Decision Affects Your Eligibility

NYSOH erred in disenrolling you and your spouse from your bronze-level QHP effective November 30, 2016, without giving proper notice.

Your case is being returned to NYSOH to contact you regarding whether you want your and your spouse's coverage in your bronze-level QHP reinstated for the month of December 2016.

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 coverage is reinstated for December 2016, you will be responsible to pay the premium for that month.

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 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:

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).

NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The November 10, 2016 eligibility determination notices are RESCINDED.

At your option, NYSOH will reinstate your and your spouse's coverage in your bronze-level QHP for the month of December 2016. Therefore, your case is RETURNED to NYSOH to contact you regarding such option. If you choose to have your bronze-level QHP reinstated for December 2016, you will be responsible to pay the insurance premium for that month.

NYSOH erred in disenrolling you and your spouse from your bronze-level QHP effective November 30, 2016, without giving proper notice.

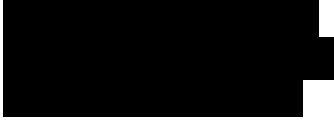
Your case is being returned to NYSOH to contact you regarding whether you want your and your spouse's coverage in your bronze-level QHP reinstated for the month of December 2016.

If coverage is reinstated for December 2016, you will be responsible to pay the premium for that month.

Legal Authority

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

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।

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&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.

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).