



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

Notice of Decision

Decision Date: May 15, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014318

[REDACTED]

Dear [REDACTED],

On March 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 14, 2016 eligibility determination notice and the December 16, 2016 disenrollment 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.

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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DEPARTMENT OF HEALTH
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Decision

Decision Date: May 15, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014318



Issue

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

Did NY State of Health properly determine your spouse's coverage through your couple's Qualified Health Plan ended effective January 1, 2017?

Procedural History

On August 27, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination stating your spouse was conditionally eligible to purchase a Qualified Health Plan at full cost through NYSOH, effective October 1, 2016. The notice directed you to provide documentation confirming your spouse's immigration status before November 24, 2016 or your spouse might lose his insurance or receive less help paying for his coverage.

Also on August 27, 2016, NYSOH issued a notice confirming your spouse's enrollment in a Catastrophic Health Plan, effective September 1, 2016.

On November 22, 2016, your spouse's enrollment was systematically deleted; no eligibility determination was issued regarding this action.

On November 23, 2016, NYSOH issued an enrollment notice stating your spouse's coverage with a qualified health plan would not begin until he picked a plan. The notice directed your spouse to pick a health plan. The notice further stated, on the fifth page, that your spouse needed to provide proof of his immigration status by November 24, 2016 or he might lose his insurance or receive less help paying for his coverage.

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On November 25, 2016, NYSOH received an updated application for health insurance for you and your spouse.

On November 26, 2016, NYSOH issued an eligibility determination notice stating you and your spouse were eligible to receive up to \$501.00 in advance payments of the premium tax credit (APTC), effective January 1, 2017. The notice indicated your spouse's eligibility was only conditional and directed him to provide proof of his immigration status by "November 24, 2016" (*sic*) or he might lose his insurance or receive less help paying for his coverage.

On November 27, 2016, NYSOH issued a notice of disenrollment stating your spouse's Catastrophic Health Plan was terminated, effective December 31, 2016, because he was no longer eligible to remain enrolled in the plan. The notice also stated that you had been sent a separate notice about your spouse's eligibility.

On December 1, 2016, NYSOH received a copy of your spouse's Permanent Resident Card with an expiration date of April 9, 2017.

On December 14, 2016, NYSOH issued an eligibility determination notice, based on your December 13, 2016 updated application, stating you and your spouse were eligible to receive up to \$501.00 in APTC, effective January 1, 2016. The notice indicated your spouse's eligibility was only conditional and directed him to provide proof of his immigration status by December 9, 2016 or he might lose his insurance or receive less help paying for his coverage.

Also on December 14, 2016, NYSOH issued a notice of enrollment confirmation, based on your December 13, 2016 plan selection, stating you and your spouse were enrolled in a couple's Qualified Health Plan, with APTC applied, effective January 1, 2016. The notice directed your spouse to provide proof of his immigration status by December 9, 2016 or he might lose his insurance or receive less help paying for his coverage.

On December 15, 2016, your spouse's eligibility was systematically redetermined and his enrollment was deleted.

On December 16, 2016, NYSOH issued a disenrollment notice stating your spouse's qualified health plan enrollment was terminated, effective January 1, 2017, because he was no longer eligible to enroll in health insurance through NYSOH.

On December 17, 2016, NYSOH validated your spouse's immigration documentation that had been submitted on December 1, 2016, and updated your application with this information.

On December 18, 2016, NYSOH issued an eligibility determination notice stating you and your spouse were fully eligible to receive up to \$501.00 of APTC, effective January 1, 2017.

Also on December 18, 2016, NYSOH issued a notice of enrollment indicating your spouse's coverage with a qualified health plan would not begin until he picked a health plan. The notice directed your spouse to pick a health plan.

On December 27, 2016, you and your spouse were reenrolled into a couple's Qualified Health Plan.

Also on December 27, 2016 you spoke to NYSOH's Account Review Unit and appealed insofar as your spouse was not covered under your couple's Qualified Health Plan for the month of January 2017.

On December 28, 2016, NYSOH issued an enrollment confirmation notice, based on your December 27, 2016 plan selection, stating you and your spouse were enrolled in a couple's Qualified Health Plan, effective January 1, 2017, with APTC applied February 1, 2017.

On March 17, 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.

Findings of Fact

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

- 1) Your spouse was determined conditionally eligible to purchase a full cost Qualified Health Plan through NYSOH, effective October 1, 2016. His eligibility was conditional upon NYSOH receiving documentation by November 24, 2016, proving your spouse had a sufficient immigration status.
- 2) Your spouse enrolled in a Catastrophic Health Plan with coverage effective September 1, 2016.
- 3) According to your account, NYSOH did not receive documentation confirming your spouse's immigration status by November 24, 2016.
- 4) Your spouse was disenrolled from his Catastrophic Health Plan, effective December 31, 2016.
- 5) On November 25, 2016, you contacted NYSOH and renewed health coverage for you and your spouse for the 2017 coverage year. You

were determined eligible to receive \$501.00 in APTC to share with your spouse, effective January 1, 2017. Your spouse was conditionally eligible to receive the same tax credits pending receipt of proof of his immigration status.

- 6) NYSOH Appeals Unit reviewed recorded telephone calls you made to NYSOH on November 25, 2016 and determined you were advised by a representative that the due date to submit your spouse's proof of immigration status documentation expired the day prior, but the representative agreed to extend the due date for the documentation to December 9, 2016.
- 7) The eligibility determination issued by NYSOH on November 26, 2016 directed your spouse to submit proof of his immigration status by November 24, 2016.
- 8) On December 1, 2016, NYSOH received a copy of your spouse's Permanent Resident Card with an April 9, 2017 expiration date.
- 9) On December 13, 2016, you contacted NYSOH and enrolled you and your spouse into a couple's qualified health plan, with APTC applied, effective January 1, 2017.
- 10) In the notice issued on December 14, 2016, it was noted that your spouse had until December 9, 2016 to submit the needed documentation.
- 11) On December 15, 2016 NYSOH systematically deleted your spouse's enrollment in your couple's qualified health plan.
- 12) The disenrollment notice issued by NYSOH on December 16, 2016 stated your spouse was being disenrolled from your couple's qualified health plan because he was no longer eligible to enroll in health insurance through NYSOH. The notice indicated you were sent a separate notice about his eligibility.
- 13) According to notes in your account on December 17, 2016, NYSOH acknowledged receipt of your spouse's Permanent Resident Card and updated your application with this information. The notes indicated your spouse's enrollment should be reinstated based on this information.
- 14) Additional notes in your account dated December 17, 2016, stated:
 - a. "Unable to reinstate coverage. Current plan is an active individual QHP, which would have to change to an alternate couple's plan,

with a new APTC distribution or consideration thereof of the current tax credit shared between both active household members. No action taken.”

- 15) Also on December 17, 2016, NYSOH systematically redetermined your household’s eligibility, based on the updated information in your updated application including your spouse’s immigration status, and determined you and your spouse were fully eligible to receive APTC of up to \$501.00, effective January 1, 2017.
- 16) On December 27, 2016, you and your spouse were reenrolled in a couple’s Qualified Health Plan.
- 17) You testified, and telephone call recordings from December 27, 2016 confirms, you were advised your spouse’s coverage through your couple’s Qualified Health Plan would not become effective until February 1, 2017.
- 18) You filed an appeal on December 27, 2016 regarding your spouse’s coverage start date through your couple’s Qualified Health Plan insofar as he was not covered for the month of January 2017.
- 19) Your account confirms your spouse’s coverage through your couple’s Qualified Health Plan did not become effective until February 1, 2017.
- 20) You testified you are seeking to have your spouse’s coverage through your couple’s qualified health plan reinstated as of January 1, 2017.

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 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)).

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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 five-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)).

Legal Analysis

The issue under review is whether NYSOH properly determined your spouse's coverage through your couple's Qualified Health Plan ended, effective January 1, 2017.

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. 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 verifying citizenship, notice is considered received five days after the date on the notice.

In the eligibility determination issued on August 27, 2016, you were advised your spouse's eligibility was only conditional, and that you needed to confirm his immigration status before November 24, 2016. Your spouse enrolled in a Catastrophic Health Plan, effective September 1, 2016.

According to your account, NYSOH did not receive the requested immigration documentation before the deadline. Your spouse was disenrolled from his Catastrophic Health Plan, effective December 31, 2016.

On November 25, 2016, you contacted NYSOH to update your account and you renewed the health coverage for you and your spouse for the 2017 coverage year. As a result, you and your spouse were determined eligible to receive up to \$501.00 in APTC, effective January 1, 2016. However, your spouse's eligibility was still conditional upon receipt of proof of his immigration status. The Appeals Unit of NYSOH reviewed recorded telephone calls you made to NYSOH on November 25, 2016 and determined you were advised by a representative that

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the due date to submit your spouse's proof of immigration status documentation expired the day prior; however, the representative agreed to extend the due date for the documentation to December 9, 2016.

It is noted that the eligibility determination notice issued on November 26, 2016 indicates your spouse's eligibility was conditional and requested proof of immigration documentation by November 24, 2016. Given the extension granted by the NYSOH representative over the phone on November 25, 2016 and the fact that it would be impossible satisfy such a request as the provided deadline had already passed, it is concluded the November 24, 2016 deadline to produce immigration documents to confirm your spouse's eligibility as provided in the November 26, 2016 eligibility determination notice was an error and the due date should have been December 9, 2016.

On December 1, 2016, NYSOH received a copy of your spouse's Permanent Resident Card. On December 13, 2016, you updated your account and you and your spouse were again determined eligible to receive up to \$501.00 in APTC, effective January 1, 2016. Although you submitted a copy of your spouse's unexpired Permanent Resident Card on December 1, 2016, the eligibility determination notice issued on December 14, 2016 indicated your spouse's eligibility was still conditional upon receipt of proof of his immigration status. The notice directed your spouse to submit documentation by December 9, 2016, which had, obviously, already passed.

On December 15, 2016, NYSOH systematically deleted your spouse's enrollment in your couple's Qualified Health Plan. The disenrollment notice issued by NYSOH on December 16, 2016, indicated your spouse's enrollment was terminated, effective January 1, 2017, because he was no longer eligible to enroll in health insurance through NYSOH, presumably because NYSOH had not yet verified the immigration documentation received on December 1, 2016, and, therefore, NYSOH determined your spouse had not proven he had a sufficient immigration status necessary to enroll in health insurance through NYSOH. The notice further indicated you were sent a separate notice about your spouse's eligibility; however, your account confirms no such eligibility determination notice was issued.

According to the regulations, 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. Based on the evidence, it is concluded your spouse adequately established his sufficient immigration status on December 1, 2016, when NYSOH received a copy of his unexpired Permanent Resident Card, prior to the December 9, 2016 due date for same. This document was eventually verified by NYSOH, albeit not until December 17, 2016. Accordingly, when your application was updated and your spouse's eligibility was redetermined on

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December 13, 2016, his eligibility should not have been conditional upon him providing proof of his immigration status, because sufficient proof had already been provided.

Therefore, the December 14, 2016, eligibility determination notice stating your spouse was eligible to receive APTC up to \$501.00, for a limited time, effective January 1, 2016, is MODIFIED to reflect your spouse was fully eligible to receive APTC, effective January 1, 2016.

As your spouse, had submitted evidence establishing a sufficient immigration status prior to the deadline for same and was, therefore, fully eligible to enroll in health insurance at the time of the December 13, 2016 eligibility redetermination, your spouse's enrollment should not have been systematically terminated on December 15, 2016. There is no evidence in the record to support this disenrollment, especially given the fact that your spouse's immigration documentation was verified by NYSOH two days later, on December 17, 2016, and your spouse was thereafter determined fully eligible to enroll in health insurance through NYSOH.

Therefore, the December 16, 2016 disenrollment notice stating your spouse's coverage through your couple's Qualified Health Plan was terminated, effective January 1, 2017, because he was no longer eligible to enroll in health insurance through NYSOH is not correct and must be RESCINDED.

Your case is returned to NYSOH to reinstate your spouse in your couple's Qualified Health Plan as of January 1, 2017.

Decision

The December 14, 2016, eligibility determination notice is MODIFIED to reflect your spouse was fully eligible to receive APTC, effective January 1, 2016.

The December 16, 2016 disenrollment notice is RESCINDED.

Your case is returned to NYSOH to reinstate your spouse in your couple's Qualified Health Plan as of January 1, 2017.

Effective Date of this Decision: May 15, 2017

How this Decision Affects Your Eligibility

Your spouse was fully eligible to enroll in a Qualified Health Plan with APTC, effective January 1, 2017.

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The effective date of your spouse's coverage in your couple's Qualified Health Plan is January 1, 2017.

Your case is being sent back to NYSOH to ensure your spouse is reinstated in your couple's Qualified Health Plan as of January 1, 2017.

This decision does not affect subsequent eligibility determinations.

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.

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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
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The December 14, 2016, eligibility determination notice is MODIFIED to reflect your spouse was fully eligible to receive APTC, effective January 1, 2016.

The December 16, 2016 disenrollment notice is RESCINDED.

Your case is returned to NYSOH to reinstate your spouse in your couple's Qualified Health Plan as of January 1, 2017.

Your spouse was fully eligible to enroll in a Qualified Health Plan with APTC, effective January 1, 2017.

The effective date of your spouse's coverage in your couple's Qualified Health Plan is January 1, 2017.

This decision does not affect subsequent eligibility determinations.

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।

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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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