



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

Notice of Decision

Decision Date: April 12, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014710

[REDACTED]

Dear [REDACTED],

On April 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's failure to issue a timely determination of your eligibility for 2017 coverage.

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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: April 12, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014710

[REDACTED]

Issue

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

Did NY State of Health (NYSOH) provide you a timely eligibility determination of your eligibility for enrollment in a qualified health plan effective January 1, 2017?

Procedural History

On October 27, 2016, NY State of Health (NYSOH) issued a renewal notice stating you had been re-enrolled in your current health plan for another year, and nothing more was required by you. The notice further stated you qualified for advance payments of the premium tax credit up to \$248.00 per month as well as cost-sharing reductions if you enroll in a silver level qualified health plan effective February 1, 2016.

On December 14, 2016, NYSOH issued an eligibility determination notice stating you were eligible for advance payments of the premium tax credit up to \$248.00 per month as well as cost-sharing reductions if you enroll in a silver level qualified health plan effective February 1, 2016. The notice stated that this was because your original eligibility was determined by an eligibility specialist at NYSOH.

Also on December 14, 2016 NYSOH issued a notice of your plan enrollment stating that your coverage in your silver level qualified health plan would end effective December 31, 2016.

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On December 15, 2016, NYSOH issued an eligibility determination notice stating you were eligible for advance payments of the premium tax credit up to \$248.00 per month as well as cost-sharing reductions if you enroll in a Silver level qualified health plan effective February 1, 2016. The notice stated that this was because your original eligibility was determined by an eligibility specialist at NYSOH.

On December 21, 2016, NYSOH issued an eligibility determination notice stating you were eligible for advance payments of the premium tax credit up to \$248.00 per month as well as cost-sharing reductions if you enroll in a Silver level qualified health plan effective February 1, 2016. The notice stated that this was because your original eligibility was determined by an eligibility specialist at NYSOH.

On December 30, 2016, NYSOH issued an eligibility determination notice stating you were eligible for advance payments of the premium tax credit up to \$248.00 per month as well as cost-sharing reductions if you enroll in a Silver level qualified health plan effective February 1, 2016. The notice stated that this was because your original eligibility was determined by an eligibility specialist at NYSOH.

On January 9, 2017, you spoke to NYSOH's Account Review Unit and appealed the fact that you were unable to enroll in a qualified health plan effective January 1, 2017 due to a defect in your account.

On April 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.

Findings of Fact

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

- 1) You submitted applications for health insurance on December 12, 2016, December 14, 2016, December 20, 2016, and December 29, 2016.
- 2) You testified that you contacted NYSOH on December 20, 2016 to inform NYSOH that you could not enroll in a qualified health plan.
- 3) On January 9, 2017, you contacted NYSOH to file an appeal. Incident [REDACTED] was created and states that a defect was opened on your account because you were unable to pick a plan.

- 4) You testified you had learned upon filing your incident on January 9, 2017, NYSOH had previously sent notice of your defect to a third-party information technology firm which would try and resolve your problems you were experiencing with your account.
- 5) You testified that at the time of your hearing on April 6, 2017 no resolution was made on your account regarding the defect that had been filed. You are still unable to enroll in a qualified health plan to date.
- 6) You testified you are not seeking a backdate in your enrollment in a qualified health plan, but would like to be able to enroll in a qualified health plan going forward at a date of your choosing.
- 7) You testified you are concerned about receiving a tax penalty for 2017 for being without health insurance coverage for close to four months.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

Enrollment in a Qualified Health Plan

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).

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, 2017, the annual open enrollment period began on November 1, 2016, and extended through January 31, 2017 (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. A special enrollment period can be granted if 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 (45 CFR § 155.420(d)(4)).

Timely Notice of Eligibility Determinations

When an individual applies for insurance through NYSOH, it must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1)).

NYSOH is required to provide "timely written notice to an applicant of any eligibility determination" made pursuant to 45 CFR Part 155, Subpart D, which sets out requirements for functions in the Individual Marketplace (45 CFR § 155.310(g)).

An applicant or enrollee has the right to appeal an eligibility determination or redetermination or a failure by the NYSOH to provide timely notice of eligibility determination (45 CFR § 155.505(b)).

Legal Analysis

The issue under review is whether NYSOH provided you a timely eligibility determination of your eligibility for enrollment in a qualified health plan effective January 1, 2017.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. It must also issue a renewal notice that contains the individual's projected eligibility and ensure it is effective on the first day of the coverage year.

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 October 27, 2016, NYSOH issued a renewal notice stating you had been re-enrolled in your current health plan for another year, and nothing more was required by you. The notice further stated you qualified for a tax credit up to \$248.00 per month as well as cost-sharing reductions if you enrolled in a silver level qualified health plan effective February 1, 2016.

The effective date of February 1, 2016 is therefore incorrect as NYSOH was required to redetermine your eligibility for the first day of the coverage year for 2017, which would be January 1, 2017.

You submitted applications for health insurance on December 12, 2016, December 14, 2016, December 20, 2016, and December 29, 2016.

When an individual applies for insurance through NYSOH, it must determine that person's eligibility promptly and without undue delay. None of the applications you submitted in December 2016 resulted in NYSOH issuing notices containing your eligibility for the 2017 coverage year. Therefore, NYSOH failed to issue a timely notice of your 2017 eligibility.

Had NYSOH issued a timely determination, your eligibility for and enrollment in a qualified health plan would have been effective as of January 1, 2017.

However, you testified you are not seeking a backdate in your enrollment in a qualified health plan, but would like to be able to enroll in a qualified health plan going forward.

To enroll into a qualified health plan outside of the annual open enrollment period, a person must qualify for a special enrollment period. 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.

On January 9, 2017, incident [REDACTED] was created and states that a defect was opened on your account because you were unable to pick a plan. Since you were unable to select a health plan due to the defect, you are eligible for a special enrollment period since your non-enrollment in a qualified health plan was unintentional and a result of an error in NYSOH's system.

Therefore, your case is RETURNED to NYSOH to resolve the defect [REDACTED] associated with your account. You may elect to enroll into coverage as of January 1, 2017 or within 60 days from the date the defect is resolved.

NYSOH's failure to resolve the defect associated with your account resulted in you being without insurance coverage for part of the 2017 coverage year. During the hearing, you testified that you are concerned about receiving a tax penalty as a result of being without coverage.

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 2017 if you did not have health coverage while you were waiting for an appeal decision about coverage eligibility or savings and your appeal was eventually successful.

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

NYSOH failed to issue a timely notice of your eligibility for 2017 coverage.

Your case is RETURNED to NYSOH to resolve the defect associated with your account and redetermine your eligibility for 2017 coverage. You may elect to enroll into coverage as of January 1, 2017 or within 60 days from the date the defect is resolved.

Effective Date of this Decision: April 12, 2017

How this Decision Affects Your Eligibility

Your case is being sent back to NYSOH to resolve the defect in your account, redetermine your eligibility, and allow you to enroll into a qualified health plan.

If You Disagree with this Decision (Appeal Rights)

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 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
P.O. Box 11729
Albany, NY 12211

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- By fax: 1-855-900-5557

Summary

NYSOH failed to issue a timely notice of your eligibility for 2017 coverage.

Your case is RETURNED to NYSOH to resolve the defect associated with your account and redetermine your eligibility for 2017 coverage. You may elect to enroll into coverage as of January 1, 2017 or within 60 days from the date the defect is resolved.

Your case is being sent back to NYSOH to resolve the defect in your account, redetermine your eligibility, and allow you to enroll into a qualified health plan.

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 bεtumi ama wo obi a okyerε 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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