



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

Notice of Decision

Decision Date: June 7, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014777

[REDACTED]

Dear [REDACTED],

On April 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 15, 2016 enrollment confirmation 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 Account ID at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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Decision

Decision Date: June 7, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014777

[REDACTED]

Issues

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

Is your appeal of the June 1, 2016 enrollment start date of your Qualified Health Plan, as stated in the July 15, 2016 enrollment confirmation notice, timely?

Did NY State of Health (NYSOH) properly determine that your enrollment in a Qualified Health Plan became effective June 1, 2016?

Procedural History

On July 14, 2016, NYSOH received your application for health insurance.

On July 15, 2016, NYSOH issued a notice of eligibility determination stating you were conditionally eligible to purchase a Qualified Health Plan (QHP) at full cost, effective August 1, 2016. The notice directed you to submit proof of your citizenship status by October 12, 2016 to confirm the information in your application, or you might lose your insurance or receive less help paying for your coverage. The notice also stated you qualified to select a health plan outside of the 2016 open enrollment period, and that you had until July 30, 2016 to select a plan.

Also, on July 15, 2016, NYSOH issued a notice of enrollment, based on your July 14, 2016 plan selection, confirming your enrollment in a QHP with an enrollment start date of June 1, 2016.

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On July 21, 2016, NYSOH issued a notice of eligibility determination indicating you were fully eligible to purchase a QHP at full cost, effective September 1, 2016.

On January 11, 2017, you spoke to NYSOH's Account Review Unit and appealed the effective date of coverage through your QHP, insofar as your coverage became effective prior to August 1, 2016.

On April 20, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to allow you to submit supporting documents.

On April 28, 2017, NYSOH received your documentation and it was incorporated into the record as Appellant's Exhibit #1. The record was then closed.

Findings of Fact

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

- 1) Your initial application for health insurance was received by NYSOH on July 14, 2016.
- 2) You testified you completed the application yourself online.
- 3) That application indicated you lost your prior health coverage on May 31, 2016.
- 4) Based on the information in the application, NYSOH found you conditionally eligible to purchase a full cost QHP, effective August 1, 2016, and granted you a special enrollment period, until July 30, 2016, in which to enroll in a QHP.
- 5) You testified, and your account confirms, you selected a health plan online on July 14, 2016.
- 6) You testified you think you selected August 1, 2016 as your enrollment start date.
- 7) NYSOH issued an enrollment notice on July 15, 2016 confirming you were enrolled in a QHP. The notice indicated the coverage through this plan became effective June 1, 2016.
- 8) Your account indicates incident # [REDACTED] was created on August 25, 2016 relating to your request to modify the effective date of your QHP to August 1, 2016. Notes from that incident indicate you stated you had

accidentally selected a June 1, 2016 start date. Additional notes in that incident indicate that, as of January 11, 2017, the incident was still pending and no resolution had been reached.

- 9) You testified you received documentation from NYSOH or the health plan confirming your enrollment start date was August 1, 2016. You were directed to submit this documentation.
- 10) On April 28, 2016, NYSOH Appeals Unit received various documents submitted including the July 15, 2016 eligibility determination notice issued by NYSOH indicating your conditional eligibility was effective August 1, 2016. None of the documentation submitted indicated your coverage through your QHP became effective August 1, 2016.
- 11) You testified you set up automatic payments with your health plan in August 2016, and the health plan deducted six months of premium payments at once, including the premiums for June and July 2016.
- 12) You testified you are seeking to modify the effective date of your QHP coverage to August 1, 2016 so you can receive reimbursement of the premium payments paid to the insurer for the months of June and July 2016.
- 13) According to your account, a formal appeal of the effective date of your QHP was filed on your behalf on January 11, 2017.

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

Applicable Law and Regulations

Timely Appeal Requests

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

Enrollment in a Qualified Health Plan

NYSOH must provide annual open enrollment periods during which time qualified individuals may enroll in a QHP and enrollees may change QHPs (45 CFR §155.410(a)(1)).

For the benefit year beginning on January 1, 2016, the annual open enrollment period began on November 1, 2015, and extended through January 31, 2016 (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 QHP, and an enrollee may change their enrollment to another plan. This is generally permitted when one of the following triggering events occur:

- (1) The qualified individual or his or her dependent involuntarily loses certain health insurance coverage:
 - (a) Health insurance considered to be minimum essential coverage;
 - (b) Enrolled in any non-calendar year health insurance policy, even if they have the option to renew the expiring non-calendar year individual health insurance policy; or
 - (c) Pregnancy-related coverage; or
 - (d) Medically needy coverage.
- (2) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange; or a non-Exchange entity providing enrollment assistance or conducting enrollment activities; or

(45 CFR § 155.420(d)).

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to select a QHP (45 CFR § 155.420(c)(1)).

Effective Date of Coverage

If a qualified individual is granted a special enrollment period due to the loss of minimal essential coverage, and selects a new plan on or before the last date of that coverage, NYSOH must ensure that the new plan is effective on the first date of the month following the date that coverage was lost. If the new plan is selected prior to the date the previous coverage ends, then the new plan may be

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made effective on the first date of the month following plan selection (45 CFR § 155.420(b)).

Legal Analysis

The first issue under review is whether your appeal of the June 1, 2016 enrollment start date of your QHP, as stated in the July 15, 2016 enrollment confirmation notice, was timely.

According to your account, you submitted an application for health insurance on July 14, 2016 and you selected a health plan for enrollment the same day. On July 15, 2016, NYSOH issued an enrollment notice confirming you were enrolled in a QHP with coverage through this plan effective June 1, 2016. You are appealing the effective date of your QHP as provided in the July 15, 2016 enrollment confirmation notice.

Pursuant to the above cited regulations, individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of the effective date of your QHP coverage, as indicated in the July 15, 2016 enrollment confirmation notice, an appeal should have been filed by September 13, 2016. Although a formal appeal was not filed in this case until January 11, 2017 (long after the 60-day limit), the evidence establishes you contacted NYSOH on August 25, 2016 to request to modify the effective date of your QHP coverage to August 1, 2016. Although an incident was created, your account confirms no resolution was ever reached. In fact, according to the records, this “incident” is still pending.

The evidence establishes you contacted NYSOH to contest the start date of your QHP enrollment on August 25, 2016. This was within the 60-day period in which to appeal the same. The evidence clearly establishes the delay in filing a formal appeal in this matter was a direct result of NYSOH’s failure to issue a timely decision on your request to modify the effective date of your QHP coverage. Therefore, your August 25, 2016 request to modify the effective date of your QHP coverage is deemed an appeal of the start date of your coverage.

Thus, it is concluded your appeal on the issue of the effective date of your QHP coverage is timely.

The second issue under review is whether NYSOH properly determined that your enrollment in a QHP became effective June 1, 2016.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that you submitted an application on July

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14, 2016. Therefore, you did not complete your application during the open enrollment period. However, in the July 14, 2016 application, you indicated that your prior health insurance ended on May 31, 2016. Loss of minimum essential coverage is considered a triggering life event.

Pursuant to the regulations, when a triggering life event occurs, the qualified individual has sixty days from the date of that event to select a qualified health plan. Accordingly, you were given a special enrollment period until July 30, 2016 to select a plan, which you did on July 14, 2016. On July 15, 2016, NYSOH issued an enrollment confirmation notice stating that your enrollment in your QHP was effective as of June 1, 2016.

In accordance with the above cited regulations, when an individual loses minimum essential coverage and is found eligible for a special enrollment period, if they select a plan before their prior coverage ends, the plan can be effective on the first day of the month following the month when coverage was lost. In your case, if you had applied before May 31, 2016 – the last date of your prior health insurance coverage – your QHP coverage could have started June 1, 2016.

However, if an individual selects a plan after the day on which he or she loses essential coverage, NYSOH can make the start date of the plan on the first day of the month following the date of plan selection. Since you selected a plan on July 14, 2016, your plan should not have started any earlier than August 1, 2016. Therefore, the evidence establishes that NYSOH erred in making your enrollment effective June 1, 2016.

Accordingly, the July 15, 2016 enrollment confirmation notice stating your coverage through your QHP became effective June 1, 2016 is MODIFIED to reflect your coverage through this plan became effective August 1, 2016.

Your case is RETURNED to NYSOH to facilitate a correction of your enrollment start date in accordance with this decision.

Decision

Your appeal of the July 15, 2016 enrollment confirmation notice was timely.

The July 15, 2016 enrollment confirmation notice is MODIFIED to reflect your coverage through this plan became effective August 1, 2016.

Your case is RETURNED to NYSOH to facilitate a correction of your enrollment start date in accordance with this decision.

Effective Date of this Decision: June 7, 2017

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How this Decision Affects Your Eligibility

NYSOH erred in the start date of your QHP coverage.

Your coverage through your QHP became effective August 1, 2016.

Your case is being sent back to NYSOH to correct your enrollment start date in accordance with this decision.

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):

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
- By fax: 1-855-900-5557

Summary

Your appeal of the July 15, 2016 enrollment confirmation notice was timely.

The July 15, 2016 enrollment confirmation notice is MODIFIED to reflect your coverage through this plan became effective August 1, 2016.

Your case is RETURNED to NYSOH to facilitate a correction of your enrollment start date in accordance with this decision.

NYSOH erred in the start date of your QHP coverage.

Your coverage through your QHP became effective August 1, 2016.

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。我们可以为您免费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)

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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।

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&tumi 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.

אַײַדיש (Yiddish)

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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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