



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

Notice of Decision

Decision Date: May 19, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014958

[REDACTED]

[REDACTED]

Dear [REDACTED],

On April 19, 2017, you and your legal counsel, [REDACTED], appeared by telephone at a hearing on your appeal of NY State of Health's December 14, 2016 eligibility determination and January 12, 2017 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 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: May 19, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014958

[REDACTED]

[REDACTED]

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 were no longer eligible for coverage through NYSOH effective January 1, 2017 because notices issued to you by NYSOH were returned as undeliverable?

Procedural History

On September 18, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan (QHP) at full cost through NYSOH, effective November 1, 2016.

Also on September 18, 2016, NYSOH issued an enrollment notice confirming your selection of a platinum-level QHP as of September 17, 2016. The notice stated that your QHP coverage would begin as of January 1, 2016. This document was returned to NYSOH on October 3, 2016 as undeliverable, but was not uploaded to your account until December 13, 2016.

On October 17, 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 determine whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2016 or you might lose the financial assistance you were currently receiving.

On December 5, 2016, NYSOH received a letter from your legal counsel, [REDACTED], indenting himself as your attorney, and providing the completed Authorized Representative Designation and Authorized Representative Identity Verification forms. These documents were sent by certified mail on or about December 2, 2016, and uploaded to your NYSOH account on December 13, 2016.

On December 8, 2016, NYSOH received an update to your application for health insurance.

On December 9, 2016, NYSOH issued an eligibility determination notice based on the information contained in the December 8, 2016 application update. The notice stated that you were eligible for the advance payment of the premium tax credit (ATPC) of up to \$249.00 per month for a limited time, effective January 1, 2017. Your eligibility for APTC was conditional pending NYSOH's receipt of your income documentation by March 8, 2017.

Also on December 9, 2016, NYSOH issued an enrollment notice confirming your reenrollment in the platinum-level QHP as of December 8, 2016. The notice stated that your QHP coverage would began as of January 1, 2017.

On December 14, 2016, NYSOH issued an eligibility determination notice stating that you were no longer qualified to enroll through NYSOH because you were sent information, including notices about your eligibility and coverage, by U.S. mail to the mailing address provided in your account. However, this information was returned to the Marketplace as undeliverable. Your eligibility for coverage through NYSOH ended effective January 1, 2017.

Also on December 14, 2016, NYSOH issued a cancellation notice confirming that your platinum-level QHP coverage ended effective January 1, 2017.

On January 11, 2017, NYSOH received a revised application that included, among other things, a revised mailing address of "[REDACTED]"

On January 12, 2017, NYSOH issued a notice confirming your change in mailing address to [REDACTED]

Also on January 12, 2017, NYSOH issued an eligibility determination notice based on the information contained in the January 11, 2017 application update. The notice stated that you were eligible for the advance payment of the premium tax credit (ATPC) of up to \$323.00 per month for a limited time, effective February 1, 2017. Your eligibility for APTC was conditional pending NYSOH's receipt of your income documentation by April 11, 2017.

Finally, on January 12, 2017, NYSOH issued an enrollment notice confirming that your platinum-level QHP coverage would begin effective February 1, 2017.

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On January 19, 2017, your legal counsel, [REDACTED], spoke with the NYSOH's Account Review Unit and requested an appeal insofar as you were disenrolled from your platinum-level QHP coverage during the month of January 2017.

On January 24, 2017, NYSOH received a revised application that included, among other things, a revised mailing address of [REDACTED]

On January 25, 2017, NYSOH issued a notice confirming your change in mailing address to [REDACTED]

On April 19, 2017, you and your legal counsel, [REDACTED], had a telephone hearing with a Hearing Officer from the 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) According to your NYSOH account, you were issued eligibility determination and enrollment notices on September 18, 2016. These notices confirmed that you were eligible for and enrolled in a platinum-level QHP effective November 1, 2016.
- 2) As of September 17, 2016, your NYSOH account reflected a mailing address of:

[REDACTED]
- 3) The September 18, 2016 enrollment notice was returned to NYSOH as undeliverable on October 3, 2016. This returned notice was not uploaded to your NYSOH account until December 13, 2016.
- 4) Your counsel stated that he contacted the insurance carrier during November 2016 and attempted to change your mailing address on file with them, but was also instructed to contact NYSOH to do the same.
- 5) On December 5, 2016, NYSOH received a letter from your legal counsel, [REDACTED], indenting himself as your attorney, and providing the completed Authorized Representative Designation and Authorized Representative Identity Verification forms. These documents were sent by

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certified mail on or about December 2, 2016, and uploaded to your NYSOH account on December 13, 2016. The Authorized Representative Designation contained a reference to your new mailing address, which was:

[REDACTED]

- 6) On December 9, 2016, NYSOH issued an eligibility redetermination notice stating that you were eligible to receive an APTC of up to \$249.00 per month, effective January 1, 2016. You reenrolled in the platinum-level QHP with such coverage to begin effective January 1, 2017.
- 7) On December 14, 2016, NYSOH issued an additional eligibility redetermination notice stating that you were no longer qualified to enroll through NYSOH because you were sent information, including notices about your eligibility and coverage, by regular mail to the mailing address provided in your account. However, this information was returned to the Marketplace as undeliverable. Your eligibility for coverage through NYSOH was cancelled effective January 1, 2017.
- 8) Your counsel stated that his office followed up with NYSOH on January 11, 2017 to update your account and to revise your address. However, the new mailing address was incorrectly referenced as:

[REDACTED]

- 9) Your counsel stated that his office again followed up with NYSOH on January 24, 2016 to update your account to correct the mailing address to:

[REDACTED]

- 10) Your coverage was reinstated effective February 1, 2017, after having been found eligible for an APTC of up to \$323.00 per month.
- 11) Your counsel stated that you were seeking for your coverage to be reinstated during the month of January 2017 since you have incurred substantial medical expenses for that month your platinum-level QHP was not in effect.

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

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Applicable Law and Regulations

State Residency Requirement

To be eligible for enrollment in a qualified health plan and eligible to receive an advance premium tax credit through the New York State of Health Marketplace, an applicant must be a resident of New York state (45 CFR § 155.305(a)(3)), (45 CFR § 155.305(f)(1)(ii)(A)).

The Marketplace must verify or obtain information to determine that an applicant is eligible for enrollment in a qualified health plan, including verification of the applicant's attestation of residency (45 CFR § 155.315(a), (d)).

An applicant for whom the Marketplace cannot verify information required to determine eligibility for enrollment in a QHP, advance premium tax credits, and cost-sharing reductions, the Marketplace must make a reasonable effort to identify and address the causes of such inconsistency. Reasonable efforts include typographical or clerical errors, by contacting the application filer to confirm the accuracy of the information submitted by the application filer (see 45 CFR § 155.315(f)(1)).

If an applicant attests to residency in New York state, and the New York State of Health Marketplace is unable to resolve inconsistencies with the attestation provided by the applicant, the Marketplace must provide the applicant notice of the inconsistency and a period of 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. (45 CFR § 155.315(f)(2)).

During the 90-day period, the Marketplace must proceed with all other elements of the eligibility determination using the applicant's attestation and provide enrollment in a qualified health plan and ensure that advance premium tax credits and cost-sharing reductions are provided on behalf of an applicant who is otherwise eligible (45 CFR § 155.315 (f)(4)).

Legal Analysis

The issue under review is whether NYSOH properly determine that you were no longer eligible for coverage through NYSOH effective January 1, 2017 because notices issued by NYSOH was returned as undeliverable.

NYSOH is required to determine whether individuals are eligible to enroll in coverage and eligible for financial assistance through NYSOH, and must confirm, among other things, that their state residency is satisfactory.

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On September 18, 2016, NYSOH issued an enrollment notice confirming your selection of a platinum-level QHP as of September 17, 2016. The notice stated that your QHP coverage would begin as of January 1, 2016. This document was returned to NYSOH on October 3, 2016 as undeliverable, but was not uploaded to your account until December 13, 2016.

On December 14, 2016, NYSOH issued an eligibility determination notice stating that you were no longer qualified to enroll through NYSOH because you were sent information, including notices about your eligibility and coverage, by U.S. mail to the mailing address provided in your account. However, this information was returned to the Marketplace as undeliverable. Your eligibility for coverage through NYSOH ended effective January 1, 2017.

An applicant for whom NYSOH cannot verify information required to determine eligibility for enrollment in a QHP, advance premium tax credits, and cost-sharing reductions, NYSOH must make a reasonable effort to identify and address the causes of such inconsistency.

The record contains no evidence showing that the Marketplace made any effort in resolving the inconsistency with your mailing address.

The record reflects that as early as December 5, 2016, your counsel submitted documentation to NYSOH to reflect that your mailing address changed to [REDACTED].

Additional attempts were made by your counsel to correct this inconsistency on January 11, 2017 and January 24, 2017.

If NYSOH cannot verify an individual's residency status, it must provide the individual a period of 90 days from the date notice is received to resolve the inconsistency.

There is no notice in the record providing the applicant notice of the inconsistency and a period of 90 days to provide satisfactory documentary to resolve the inconsistency.

Since NYSOH failed to make reasonable efforts to resolve the inconsistency and proper notice of the inconsistency, the December 14, 2016 eligibility determination notice is RESCINDED.

Furthermore, the January 12, 2017 enrollment notice is MODIFIED to state that your platinum-level QHP coverage begins effective January 1, 2017.

Your case is RETURNED to NYSOH to reinstate your QHP coverage during the month of January 2017. Please note, however, that you will be responsible for the premium due in connection with the reinstatement of your coverage during January 2017.

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Decision

The December 14, 2016 eligibility determination notice is RESCINDED.

The January 12, 2017 enrollment notice is MODIFIED to state that your platinum-level QHP coverage begins effective January 1, 2017.

Your case is RETURNED to NYSOH to reinstate your QHP coverage during the month of January 2017.

Effective Date of this Decision: May 19, 2017

How this Decision Affects Your Eligibility

Your platinum-level QHP coverage begins effective January 1, 2017.

Please note, however, that you will be responsible for the premium due in connection with the reinstatement of your coverage during January 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:

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).

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
- By fax: 1-855-900-5557

Summary

The December 14, 2016 eligibility determination notice is RESCINDED.

The January 12, 2017 enrollment notice is MODIFIED to state that your platinum-level QHP coverage begins effective January 1, 2017.

Your case is RETURNED to NYSOH to reinstate your QHP coverage during the month of January 2017.

Your platinum-level QHP coverage begins effective January 1, 2017.

Please note, however, that you will be responsible for the premium due in connection with the reinstatement of your coverage during January 2017.

Legal Authority

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

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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)

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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 bɛtumi ama wo obi a okyerɛ 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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