



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

Notice of Decision

Decision Date: May 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015351

[REDACTED]

Dear [REDACTED],

On May 5, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 30, 2016 eligibility determination notice and the December 30, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: May 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015351

[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 your enrollment in a qualified health plan, as well as the application of advance premium tax credits (APTC), was effective February 1, 2017?

Procedural History

On November 15, 2016, you updated your application for financial assistance with health insurance.

On November 16, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible for up to \$186.00 per month in APTC as well as cost-sharing reductions if you selected a silver level qualified health plan, effective December 1, 2016.

Also on November 16, 2016, NYSOH issue a notice of enrollment stating that you were enrolled in a silver level qualified health plan with a plan enrollment start date of December 1, 2016, and that your APTC would be applied to your monthly premium as of December 1, 2016.

Additionally, on November 16, 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 make a decision about whether you would qualify for financial help paying for

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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 November 27, 2016, NYSOH issued a notice of disenrollment stating that your coverage in your silver level qualified health plan would end on December 31, 2016.

No updates were made to your account by December 15, 2016.

On December 19, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2017. You no longer qualified to receive financial assistance to help pay for your health coverage. This was because you did not respond to the renewal notice and did not complete your renewal within the required time frame.

On December 29, 2016, NYSOH received your updated application for health insurance.

On December 30, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$165.00 per month in APTC and, if you selected a silver-level qualified health plan, for cost-sharing reductions, for a limited time. This eligibility was effective February 1, 2017. This notice further directed you to produce income documentation by March 29, 2017.

On December 30, 2016, NYSOH issued a notice confirming your enrollment in a bronze level qualified health plan with a plan enrollment start date of February 1, 2017, and that your APTC would be applied to your premium as of February 1, 2017.

On January 18, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as you had no coverage or financial assistance for the month of January 2017.

On April 25, 2017, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date.

On May 5, 2017, you had an adjourned telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the hearing. 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) Your NYSOH account reflects that you contacted NYSOH on November 15, 2016 and completed an application for financial assistance with health insurance.
- 2) You testified that the purpose of this application was to obtain coverage for 2017. You further testified that you believed that you were not eligible to enroll for 2016 coverage as you had missed the open enrollment period. You also testified that when you completed your application, you were advised that your plan could begin as early as November 1, 2016, and you elected to have your enrollment begin as of December 1, 2016.
- 3) The application that you completed on November 15, 2016 indicates that you elected to have your coverage automatically renewed for five years.
- 4) On November 15, 2016, you selected a silver level qualified health plan for enrollment.
- 5) Your NYSOH account indicates that you receive notices from NYSOH by regular mail.
- 6) You testified that you did not receive any notices from NYSOH telling you that you needed to update the information in your NYSOH account to ensure that your coverage would not be interrupted and that your financial assistance would continue, nor did you receive the notice advising you that your coverage was ending as of December 31, 2016.
- 7) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 8) You testified that you did not know you needed to renew your application until you contacted your plan in December 2016 to find out when you would receive your insurance card, at which time you were advised that you were only enrolled in coverage for December 2016.
- 9) Your NYSOH account reflects that you updated the information in your NYSOH account on December 29, 2016. That day you also enrolled into a bronze level qualified health plan.
- 10) During the hearing, you gave permission for the Hearing Officer to listen to the recordings of phone calls you had with NYSOH.

- 11) The record reflects that on November 15, 2016 you placed two phone calls to NYSOH.
- 12) A review of the recording of the first phone call you placed to NYSOH on November 15, 2016 reveals that the NYSOH representative advised you that your enrollment would begin as of December 1, 2016. However, you then advised the representative that you wanted your enrollment to begin as of January 1, 2017, but before the NYSOH representative could process this request, the call was disconnected.
- 13) A review of the recording of the second phone call you placed to NYSOH on November 15, 2016 reveals that you initially requested a January 1, 2017 start date for your enrollment, however, the NYSOH representative advised you that your plan could begin as of November 1, 2016. At that time, you elected to have your plan begin as of December 1, 2016.

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

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The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Annual Re-enrollment into a Qualified Health Plan

If an enrollee remains eligible for enrollment in a qualified health plan as part of the annual eligibility redetermination and the plan in which they are enrolled remains available through NYSOH for renewal, such enrollee will have his or her enrollment through the qualified health plan renewed, unless an enrollee voluntarily terminates coverage (45 CFR § 155.335(j)(1)).

If the enrollee's current qualified health plan is no longer available through NYSOH, they will be renewed in a qualified health plan at the same metal level as the enrollee's current qualified health plan within the same product (45 CFR §155.335(j)(1)(ii)).

If the enrollee's current qualified health plan is no longer available through NYSOH, and the enrollee's product no longer includes a qualified health plan at the same metal level as the enrollee's current qualified health plan and the enrollee's current qualified health plan is a silver level plan, the enrollee will be reenrolled in a silver level qualified health plan under a different product offered by the same qualified health plan issuer that is the most similar to the enrollee's product (45 CFR §155.335(j)(1)(iii)).

Effective Date of Advanced Payments of the Premium Tax Credit

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the month following the date of the notice (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax

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refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The issue under review is whether NYSOH properly determined that your enrollment in a qualified health plan and your eligibility for advance premium tax credits were effective February 1, 2017.

The record reflects that you were enrolled in a silver level qualified health plan as of December 1, 2016.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual's projected eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On November 16, 2016, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you would qualify for financial help with paying for your health coverage. You were asked to update the information in your account between November 16, 2016 and December 15, 2016 or the financial help you were receiving might end.

On November 27, 2016, NYSOH issued a notice stating that your coverage with your silver level qualified health plan would end on December 31, 2016.

You did not respond to the renewal notice to update your eligibility for financial assistance between November 16, 2016 and December 15, 2016. As a result, NYSOH found that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2017.

You testified that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, the record reflects that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated in order to ensure your enrollment in your health plan and eligibility for financial assistance would continue.

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You first renewed your eligibility for financial assistance through NYSOH for 2017 on December 30, 2016, and selected a bronze level qualified health plan at that time.

Generally, a plan that is selected after the fifteenth day of a month goes into effect on the first day of the second following month. However, if at the time of the annual renewal an enrollee remains eligible for enrollment in a qualified health plan and the plan in which they are enrolled remains available through NYSOH, such enrollee will have his or her enrollment through the qualified health plan renewed.

Your NYSOH account reflects that as of December 1, 2016, you were enrolled in a silver level qualified health plan. Furthermore, your NYSOH account indicates that at the time of the November 15, 2016 application, you elected to have automatic renewal of your health coverage.

Since you remained eligible to enroll in a qualified health plan, and you elected to have automatic renewal of your health coverage, NYSOH was required to reenroll you into the same silver level qualified health plan if it was available or if it was not available, a similar silver level qualified health plan, effective January 1, 2017.

Additionally, any changes in APTC are to be made effective the date following the eligibility redetermination notice.

Since you updated your application on December 30, 2016, any changes in APTC should have been made effective as of January 1, 2017.

Therefore, NYSOH's December 30, 2016 eligibility determination notice is MODIFIED to state that you are eligible for APTC of up to \$165.00 per month, effective January 1, 2017.

NYSOH's December 30, 2016 enrollment confirmation notice is MODIFIED to state that you were enrolled in a silver level qualified health plan from January 1, 2017 to January 31, 2017.

As you selected the bronze level qualified health plan on December 30, 2016, your enrollment in the bronze level qualified health plan properly began on the first day of the second month following December 2016; that is, on February 1, 2017.

Therefore, the December 30, 2016 enrollment confirmation notice is AFFIRMED insofar as it began your enrollment in your bronze level qualified health plan as of February 1, 2017.

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Decision

The December 30, 2016 eligibility determination notice is MODIFIED to state that you are eligible for APTC of up to \$165.00 per month, effective January 1, 2017.

December 30, 2016 enrollment confirmation notice is MODIFIED to state that you were enrolled in a silver level qualified health plan from January 1, 2017 to January 31, 2017.

The December 30, 2016 enrollment confirmation notice is AFFIRMED insofar as it began your enrollment in your bronze level qualified health plan as of February 1, 2017.

Your case is RETURNED to NYSOH to enroll you into a silver level qualified health plan which is most similar to the silver level qualified health plan you were enrolled in for December 2016, from January 1, 2017 to January 31, 2017, and apply your APTC of up to \$165.00 per month, effective January 1, 2017.

Effective Date of this Decision: May 17, 2017

How this Decision Affects Your Eligibility

You should have been automatically reenrolled into a silver level qualified health plan as of January 1, 2017.

Your eligibility for APTC should have begun as of January 1, 2017.

Your enrollment in your bronze level qualified health plan properly began as of February 1, 2017.

Your case is being sent back to NYSOH to effectuate this change. You will be responsible for any premiums associated with this coverage.

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

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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
- By fax: 1-855-900-5557

Summary

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The December 30, 2016 eligibility determination notice is MODIFIED to state that you are eligible for APTC of up to \$165.00 per month, effective January 1, 2017.

December 30, 2016 enrollment confirmation notice is MODIFIED to state that you were enrolled in a silver level qualified health plan from January 1, 2017 to January 31, 2017.

You should have been automatically reenrolled into a silver level qualified health plan as of January 1, 2017.

Your eligibility for APTC should have begun as of January 1, 2017.

The December 30, 2016 enrollment confirmation notice is AFFIRMED insofar as it began your enrollment in your bronze level qualified health plan as of February 1, 2017.

Your enrollment in your bronze level qualified health plan properly began as of February 1, 2017.

Your case is RETURNED to NYSOH to enroll you into a silver level qualified health plan which is most similar to the silver level qualified health plan you were enrolled in for December 2016, from January 1, 2017 to January 31, 2017, and apply your APTC of up to \$165.00 per month, effective January 1, 2017.

You will be responsible for any premiums associated with this coverage.

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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