



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

Notice of Decision

Decision Date: June 02, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015500

[REDACTED]

Dear [REDACTED],

On May 4, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 2, 2017 enrollment notice and February 2, 2017 eligibility determination 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
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Decision

Decision Date: June 02, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015500



Issues

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

Did NY State of Health properly determine that you were enrolled in your CareConnect silver level qualified health plan rather than a CareConnect bronze level qualified health plan, effective January 1, 2017?

Did NY State of Health properly determine that you do not qualify to change your qualified health plan outside of the open enrollment period, effective March 1, 2017?

Procedural History

On October 21, 2016, NY State of Health (NYSOH) issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that you were still qualified to buy a health plan at full cost through NYSOH, effective January 1, 2017. The notice further advised you that you were being re-enrolled into your CareConnect silver level qualified health plan with a plan start date of January 1, 2017. The notice also stated that if you wanted to make any changes, these would need to be made between November 16, 2016 and December 15, 2016, for your new plan to be effective January 1, 2017.

On November 18, 2016, NYSOH issued an enrollment notice confirming your re-enrollment in your CareConnect silver level qualified health plan with a plan enrollment start date of January 1, 2017.

On February 1, 2017, NYSOH received your application for health insurance.

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On February 2, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective March 1, 2017. It further stated that you do not qualify to select a health plan outside of the open enrollment period for 2017.

Also on February 2, 2017, NYSOH issued an enrollment notice confirming your enrollment in your CareConnect silver level qualified health plan with a plan enrollment state date of January 1, 2017.

On February 2, 2017, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination insofar as you were not eligible to enroll in a health plan outside of the open enrollment period.

On May 4, 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 for fourteen days, to allow you to submit supporting documents. On May 14, 2017, the Appeals Unit received via fax a screenshot showing that the screenshot of your plan selection dashboard was created on December 11, 2016. This has been marked as Appellant's Exhibit #1 and incorporated into the record. The record is now closed.

Findings of Fact

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

- 1) You testified, and your NYSOH account reflects, that you were enrolled in a CareConnect silver level qualified health plan throughout 2016.
- 2) You testified that you previously received all of your notices from NYSOH by electronic mail.
- 3) You testified that you could not recall if you received an electronic alert regarding the October 21, 2016 renewal notice or the November 18, 2016 enrollment notice being uploaded to your NYSOH account.
- 4) You testified that you have difficulty with your NYSOH account and are unable to open the notices.
- 5) You testified that on December 11, 2016 you accessed your NYSOH account on-line in order to change your coverage from a CareConnect silver level qualified health plan to a CareConnect bronze level qualified health plan.

- 6) On March 2, 2017, you uploaded a screenshot to your NYSOH account. This screenshot is of your NYSOH account plan selection dashboard. The screenshot shows your current plan as the CareConnect silver level qualified health plan and your new plan name as the CareConnect bronze level qualified health plan. The plan selection dashboard instructions direct you to click on the confirm and check out button in order to complete your plan change. On May 14, 2017, you submitted a screenshot of the above screenshot which also included the properties for the initial screenshot, which showed that the screenshot submitted on March 2, 2017 was created December 11, 2016.
- 7) You testified that you learned that your enrollment had not be changed from the CareConnect silver level qualified health plan to the CareConnect bronze level qualified health plan when you began receiving premium bills with a higher premium amount than you had anticipated.
- 8) You testified that you contacted NYSOH in the last two weeks of January regarding your plan enrollment.
- 9) However, there are no recordings or notations of phone calls between yourself and NYSOH between October 27, 2016 and February 1, 2017.
- 10)The record reflects that the first time you called NYSOH regarding switching from your CareConnect silver level qualified health plan to the CareConnect bronze level qualified health plan was on February 1, 2017.
- 11)You testified that there have been no major changes to your household such as a birth, death, marriage, or permanent move.
- 12)You testified that you are seeking to be enrolled in a CareConnect bronze level qualified health plan 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

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 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.

Electronic Notices

If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

Enrollment in a Qualified Health Plan

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)).

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)).

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

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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 either:
 - (i) Loses minimum essential coverage.
 - (ii) Is enrolled in any non-calendar year group health plan or individual health insurance coverage, even if the qualified individual or his or her dependent has the option to renew such coverage.
 - (iii) Loses pregnancy-related coverage.
 - (iv) Loses medically needy coverage as described under section 1902(a) (10) (C) of the Social Security Act only once per calendar year.
- (2)(i) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care, or through a child support order or other court order.
 - (ii) the enrollee loses a dependent or is no longer considered a dependent through divorce or legal separation as defined by State law in the State in which the divorce or legal separation occurs, or if the enrollee, or his or her dependent, dies.
- (3) The qualified individual, or his or her dependent, becomes newly eligible for enrollment in a qualified health plan because he or she gains citizenship, status as a national, or lawful present or is no longer incarcerated.
- (4) 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.
- (5) The enrollee or, his or her dependent adequately demonstrates to NYSOH that the qualified health plan in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee;
- (6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or change in eligibility for cost-sharing reductions.

(7) The qualified individual or enrollee, or his or her dependent, gains access to new qualified health plan as a result of a permanent move and either—

(i) Had minimum essential coverage for one or more days during the 60 days preceding the date of the permanent move, or

(ii) Was living outside of the United States or in a United States territory at the time of the permanent move;

(8) The qualified individual or dependent who gains or maintains status as an Indian may enroll in a qualified health plan or change from one plan to another, once per month.

(9) The qualified individual or enrollee, or his or her dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide;

(10) A qualified individual or enrollee—

(i) Is a victim of domestic abuse or spousal abandonment, including a dependent or unmarried victim within a household, is enrolled in minimum essential coverage and seeks to enroll in coverage separate from the perpetrator of the abuse or abandonment; or

(ii) Is a dependent of a victim of domestic abuse or spousal abandonment, on the same application as the victim, may enroll in coverage at the same time as the victim;

(11) A qualified individual or dependent—

(i) Applies for coverage through NYSOH during the annual open enrollment period or due to a qualifying event, is assessed as potentially eligible for Medicaid or Child Health Plus and is determined ineligible for Medicaid or Child Health Plus either after open enrollment has ended or more than 60 days after the qualifying event; or

(ii) Applies for coverage at their Local Department of Social Services or Human Resources Administration during the annual open enrollment period, and is determined ineligible for Medicaid or Child Health Plus after open enrollment has ended;

(12) The qualified individual or enrollee, or his or her dependent, adequately demonstrates to NYSOH that a material error related to plan benefits, service area, or premium influenced the qualified individual's or enrollee's decision to purchase a qualified health plan; or

(13) At the option of NYSOH, the qualified individual provides satisfactory documentary evidence to verify his or her eligibility for an insurance affordability program or enrollment following termination of enrollment due to a failure to verify such status within 90 days.

(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 qualified health plan (45 CFR § 155.420(c)(1)).

Legal Analysis

The first issue is whether NYSOH properly determined that you were enrolled in your CareConnect silver level qualified health plan rather than a CareConnect bronze level 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. 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 October 21, 2016, NYSOH issued a renewal notice stating that you were eligible to purchase a qualified health plan at full cost, effective January 1, 2017. The notice further advised you that you were being re-enrolled in your CareConnect silver level qualified health plan with a plan start date of January 1, 2017.

On November 18, 2016, NYSOH issued an enrollment notice confirming that you were enrolled in your CareConnect silver level qualified health plan with a plan enrollment start date of January 1, 2017.

NYSOH is required to re-enroll an individual into their same qualified health plan if the plan remains available through NYSOH and the individual remains eligible for enrollment in a qualified health plan as part of the annual eligibility redetermination.

You testified that you previously had elected to receive electronic alerts. You testified that you could not recall if you received an electronic alert from NYSOH regarding the October 21, 2016 renewal notice or the November 18, 2016 renewal notice. You further testified that you could not review the notices once you accessed your NYSOH account.

However, there is no indication that the ability to see the notices from NYSOH is a technical issue on the part of NYSOH. Therefore, the record reflects that NYSOH properly notified you of your annual renewal and re-enrollment in your CareConnect silver level qualified health plan.

You testified and provided documentation that on December 11, 2016, you accessed your NYSOH account and began the process of changing your enrollment from your CareConnect silver level qualified health plan to a CareConnect bronze level qualified health plan.

However, the documentation you submitted indicates that in order for the change to become final, you would need to select the confirm and check out button at the bottom of the page. There is no indication that you ever completed the enrollment process and selected the confirm and check out button.

As NYSOH properly re-enrolled you into your CareConnect silver level qualified health plan and there is no indication that you ever completed the process to change your enrollment from the CareConnect silver level qualified health plan to the CareConnect bronze level qualified health plan, the February 2, 2017 enrollment confirmation stating that you are enrolled in your CareConnect silver level qualified health plan, effective January 1, 2017, is AFFIRMED.

The second issue under review is whether NYSOH properly determined that you do not qualify to change your qualified health plan outside of the open enrollment period, effective March 1, 2017.

NYSOH provided an open enrollment period from November 1, 2016 until January 31, 2017. On February 1, 2017, you submitted an application for health insurance and requested to enroll in a different qualified health plan. On February 2, 2017 NYSOH issued a notice stating that you do not qualify to enroll in a qualified health plan outside of the open enrollment period.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period in order to enroll in, or change to another health plan offered in NYSOH. In order to qualify for a special enrollment period, a person must experience a triggering event.

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

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inaction of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities

You testified that you accessed your NYSOH account on December 11, 2016 in order to change plans. However, there is no indication that you completed the enrollment process in order to change your coverage from the CareConnect silver level qualified health plan to the CareConnect bronze level qualified health plan. Since the record does not indicate that NYSOH, by action or inaction, made an error or misrepresented information, a special enrollment period cannot be granted.

The credible evidence of record indicates that, since the open enrollment period closed on January 31, 2017, no other triggering events have occurred that would qualify you for a special enrollment period.

Therefore, NYSOH's February 2, 2017 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2017 is AFFIRMED.

Decision

The February 2, 2017 enrollment notice is AFFIRMED.

The February 2, 2017 eligibility determination is AFFIRMED.

Effective Date of this Decision: June 2017

How this Decision Affects Your Eligibility

Your enrollment in your CareConnect silver level qualified health plan began on January 1, 2017.

You do not qualify for a special enrollment period at this time.

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.

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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
- By fax: 1-855-900-5557

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Summary

The February 2, 2017 enrollment notice is AFFIRMED.

Your enrollment in your CareConnect silver level qualified health plan began on January 1, 2017.

The February 2, 2017 eligibility determination is AFFIRMED.

You do not qualify for a special enrollment period at this time.

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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