



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

Notice of Decision

Decision Date: May 25, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015595

[REDACTED]

Dear [REDACTED]

On May 8, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 7, 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).

This page intentionally left blank.

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

Decision

Decision Date: May 25, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015595

[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 do not qualify to enroll in a qualified health plan outside of the open enrollment period, effective March 1, 2017?

Procedural History

On February 6, 2017, NYSOH received your application for financial assistance. That day, a preliminary eligibility determination was prepared finding you eligible for tax credits and ineligible for cost sharing reductions. You also attempted to enroll into a qualified health plan but were unable to select a plan for enrollment.

Also on February 6, 2017, you spoke to NYSOH's Account Review Unit and appealed your inability to enroll into a qualified health plan outside of the open enrollment period.

On February 7, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to receive an advance premium tax credit of up to \$248.00 per month and ineligible for cost sharing reductions, 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.

On May 8, 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 May 18, 2017, to allow you to submit supporting documents.

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 May 18, 2017, you submitted proof of your current income, student loan interest payments and tuition and fee payments. This documentation was made part of the record as "Appellant's Exhibit A." No further documentation was received as of May 23, 2017 and the record is now closed.

Findings of Fact

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

- 1) On February 6, 2017, you applied for health insurance through NYSOH. You attempted to enroll in a different health plan that day.
- 2) According to your NYSOH account, you have been enrolled in a qualified health plan through NYSOH since January 1, 2017.
- 3) You testified that you wanted to change insurance companies because you are not satisfied with your current coverage and need to see a certain physician.
- 4) You testified that you expect your 2017 income to decrease because you are not working overtime shifts and that you have student loan interest and tuition and fees deductions that are not listed in the February 6, 2017 application for financial assistance. Specifically, you testified that you have approximately \$1,400.00 in tuition fees each semester and expect to have the same expenses in 2017.
- 5) According to your NYSOH account, you expect to file your 2017 income tax return as single and will claim no dependents on that tax return.
- 6) The application that you submitted on February 6, 2017 lists an annual household income of \$30,129.20.
- 7) On May 18, 2017, you submitted two bi-weekly paystubs showing that over 9 bi-weekly pay periods you earned \$14,790.14. This calculates to an average of \$1,643.33 bi-weekly for an annual 2017 estimated household income of \$42,726.67. These paystubs also show that you earned \$3,015.58 in four weeks, which shows an average of \$1,507.79 bi-weekly for an annual 2017 estimated income of \$39,202.54 (see Appellant's Exhibit A).
- 8) On May 18, 2017, you submitted your 1098-T indicating that you were billed for \$7,220.00 in educational expenses in 2016 and were granted \$3,610.00 in scholarships or grants and a student loan interest statement showing that you paid interest in 2016 on a student loan (a handwritten

note indicates the amount of this student loan interest to be \$530.31). This shows that you have \$3,610.00 in tuition and fees expenses annually. It is unclear as to how much student loan interest was paid in 2016 as the student loan interest statement does not provide that information (*id*).

9) The documentation you submitted shows that you have an estimated expected 2017 annual income of between \$35,062.23 [\$39,202.54- (\$3610.00+\$530.31)] and \$39,116.67 (\$42,726.67 - \$3,610.00). Both calculations are higher than what was attested to in the February 6, 2016 application (*id*).

10) You testified that since filing your application on February 6, 2017 there have been no other major changes to your household.

11) You testified that you did not rely on any statements made by NYSOH that prevented you in enrolling in a qualified health plan sooner.

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

Applicable Law and Regulations

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)).

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. This is generally permitted when one of the following triggering events occur:

(1) The qualified individual or his or her dependent either:

(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.

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).

(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)).

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2016 FPL, which is \$11,880.00 for a one-person household (81 Fed. Reg. 4036.).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the 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 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 you do not qualify to enroll in a 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 6, 2017, you applied for health insurance and requested to enroll in a different qualified health plan. On February 7, 2017, NYSOH issued a notice stating in relevant part 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 to enroll in, or change to another health plan offered in NYSOH. To qualify for a special enrollment period, a person must experience a triggering event.

You testified that your income has decreased since you applied for health coverage on February 6, 2017.

Generally, when an 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, that is considered a triggering life event.

According to your NYSOH account, you expect to file your 2017 income tax return as single and will claim no dependents on that tax return.

The application that you submitted on February 6, 2017 lists an annual household income of \$30,129.20, which is 253.61% of the applicable FPL. Based on this information you provide, NYSOH found you eligible for an advance payment of the premium tax credit and ineligible for cost sharing reductions, which are available to persons whose income is less than 250% of the applicable FPL.

However, you testified that your income has decreased since you applied and that you have additional deductions not listed in your application that should be considered.

The documentation you submitted shows that you have an estimated expected 2017 annual income of between \$35,062.23 and \$39,116.67, which is 295.14% and 329.26% of the applicable FPL, respectively. These amounts reflect an increase in expected 2017 income, rather than a decrease. Although, these amounts are higher than what you attested to in your February 6, 2017 application, you remain eligible for an advance payment of the premium tax credit and ineligible for cost sharing reductions at either income level. Since, there is no

change in your eligibility, a special enrollment period cannot be granted on this basis.

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 7, 2017 eligibility determination that you do not qualify to select a health plan outside of the open enrollment period for 2017 is **AFFIRMED**.

However, your NYSOH account reflects that NYSOH's system redetermined you eligible for APTC of \$158.00 as of June 1, 2017, as stated in its May 14, 2017 eligibility redetermination notice. According to the corresponding plan enrollment notice, you were enrolled in a gold-level qualified health plan, effective March 1, 2017, which infers that NYSOH conceded that you qualified for a special enrollment period.

Lastly, as to the amount of APTC to which you are entitled, at the end of a tax year, a person who elects to take the 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, which may also result in a tax credit or reduction in tax liability if the full amount of APTC to which a person is entitled is not taken throughout the year. Conversely, if a person received more APTC than their maximum entitlement, based on gross income, they might owe the excess as an additional income tax liability. Therefore, the amount of APTC to which you were entitled can be reconciled at the time you file your 2017 federal income tax return.

Decision

The February 7, 2017 eligibility determination notice is **AFFIRMED**.

This Decision has no effect on any eligibility determination or enrollment notices issued by NYSOH.

Effective Date of this Decision: May 25, 2017

How this Decision Affects Your Eligibility

You did not qualify for a special enrollment period as of February 7, 2017.

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).

However, NYSOH has redetermined your eligibility and enrolled you in a gold-level qualified health plan as of March 1, 2017; thus, conceding the point.

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 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

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).

- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The February 7, 2017 eligibility determination notice is AFFIRMED.

This Decision has no effect on any eligibility determination or enrollment notices issued by NYSOH.

You did not qualify for a special enrollment period as of February 7, 2017.

However, NYSOH has redetermined your eligibility and enrolled you in a gold-level qualified health plan as of March 1, 2017; thus, conceding the point.

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।

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).

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.

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).