



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: AP000000015665

[REDACTED]

Dear [REDACTED]

On May 9, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 2, 2016 eligibility determination notice and November 2, 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: May 25, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015665

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Was your appeal of NY State of Health's November 2, 2016 notice of eligibility determination and November 2, 2016 enrollment confirmation notice?

Did NY State of Health properly determine that your enrollment in a qualified health plan and the application of advance payments of the premium tax credit were effective, December 1, 2016?

Procedural History

On November 1, 2016, you updated your application for financial assistance with health insurance.

On November 2, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$90.00 per month in advance payments of the premium tax credit (APTC). This eligibility was effective December 1, 2016.

Also on November 2, 2016, NYSOH issued notice of enrollment, based on your plan selection on November 1, 2016, confirming your enrollment in a qualified health plan with a monthly premium responsibility of \$394.36, after your APTC of \$90.00 was applied, both effective December 1, 2016.

Additionally, on November 2, 2016, incident # [REDACTED] was created regarding the issue of the start date of your qualified health plan and APTC. This incident

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shows that you were granted coverage in your qualified health plan as of November 1, 2016.

On February 8, 2017, you spoke to NYSOH's Account Review Unit and filed an appeal insofar as you no longer wanted your qualified health plan to begin as of November 1, 2016.

On May 9, 2016, you had a telephone hearing with a Hearing Officer from 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 supports the following findings of fact:

- 1) You updated your application to NYSOH for financial assistance on November 1, 2016. The record reflects that you selected a qualified health plan for enrollment that day.
- 2) On November 2, 2016 incident [REDACTED] was created, wherein it is noted that you requested that your enrollment in your qualified health plan be effective November 1, 2016. On November 3, 2016, this request was granted.
- 3) NYSOH did not issue an eligibility determination or an enrollment notice as a result of incident [REDACTED] stating that your enrollment in your qualified health plan was effective November 1, 2016.
- 4) You testified that you did not receive any insurance card or other information from your qualified health plan in November 2016.
- 5) On November 23, 2016 incident [REDACTED] was created. At that time, you requested that your enrollment in your qualified health plan be effective as of December 1, 2016. This was because you did not receive an insurance card to use in November 2016 and your qualified health plan advised you that they did not have information that you were to be covered as of November 1, 2016.
- 6) On December 21, 2016 incident [REDACTED] was created. At that time, you called to dispute the November 30, 2016 end date of your qualified health plan and were seeking to disenroll from coverage for the month of November 2016.
- 7) On December 29, 2016 incident # [REDACTED] was created. At that time, you again indicated that you wished to be disenrolled from your qualified health

plan for November 2016. This incident indicates that the file was resent to your qualified health plan and a call was placed to you on January 4, 2017 to advise you of this.

- 8) You testified that you are seeking to have no enrollment for November 2016 as you were unable to use your coverage for that month, as you received no insurance card, notice from NYSOH stating that you were enrolled for November 2016, or other proof that you were enrolled for November 2016, but you have still been charged a premium for November 2016.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (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)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(D)).

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be

that any change made after the 15th of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of advance payments of the premium tax credit (APTC) for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

Enrollment in a Qualified Health Plan

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)).

Notice of Decision Concerning Eligibility

NYSOH must issue a written notice of eligibility for every application unless such application has been withdrawn, the applicant has died, or the application cannot be located (42 CFR §600.330(e)).

Legal Analysis

The first issue under review is whether your appeal of NYSOH's November 2, 2016 eligibility determination and November 2, 2016 enrollment confirmation was timely.

The record reflects that you first contacted NYSOH to file a formal appeal regarding your enrollment for the month of November 2016 on February 8, 2017.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of your enrollment and disenrollment date from your qualified health plan, an appeal should have been filed by January 1, 2017. The record reflects that you filed your appeal on February 8, 2017, which is beyond the 60-day deadline.

Although your appeal was untimely on its face, the record reflects that you contacted NYSOH on November 23, 2016, December 21, 2016, and December 29, 2016. Additionally, the incident created on December 29, 2016, which was within the 60-day time frame to appeal, was not noted as being resolved until January 4, 2017.

As you filed a formal appeal on February 8, 2017, which was within 60 days of the resolution of the December 29, 2016 incident, your appeal was timely and will be addressed.

The second issue under review is whether NYSOH properly determined that your enrollment in a qualified health plan, as well as the application of APTC, was effective December 1, 2016.

The record shows that on November 1, 2016 you updated the information in your NYSOH account and submitted a request to enroll in a qualified health plan. On November 2, 2016 NYSOH issued an enrollment confirmation notice stating that your enrollment in your qualified health plan was effective December 1, 2016 and that APTC would be applied to your monthly premium effective December 1, 2016.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month. Additionally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the first day to and including fifteenth day of a month goes into effect on the first day of the following month.

As you updated your application on November 1, 2016 and selected a qualified health plan for enrollment that day, your plan should have taken effect as of the first day of the first month following November 2016; that is, on December 1, 2016.

Therefore, NYSOH's November 2, 2016 eligibility determination notice and enrollment confirmation notice are **AFFIRMED** because they properly began your enrollment in your qualified health plan as well as your advance premium tax credits on December 1, 2016.

On November 3, 2016, NYSOH backdated your enrollment in your qualified health plan as well as your receipt of APTC to November 1, 2016. You have requested that this be rescinded.

NYSOH did not provide you with proper written notice of this eligibility determination, which prevented you from being able to use your coverage in November 2016. Therefore, the informal resolution contained in incident

[REDACTED] is RESCINDED and the matter is RETURNED to NYSOH to disenroll you from your qualified health plan for November 2016.

Decision

The November 2, 2016 eligibility determination notice is AFFIRMED.

The November 2, 2016 enrollment confirmation notice is AFFIRMED.

Resolution of incident [REDACTED] is RESCINDED.

Your case is RETURNED to NYSOH to disenroll you from your qualified health plan for the month of November 2016.

Effective Date of this Decision: May 25, 2017

How this Decision Affects Your Eligibility

Your case is being sent back to NYSOH to disenroll you from your qualified health plan for the month of November 2016.

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

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:
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 November 2, 2016 eligibility determination notice is AFFIRMED.

The November 2, 2016 enrollment confirmation notice is AFFIRMED.

Resolution of incident [REDACTED] is RESCINDED.

Your case is RETURNED to NYSOH to disenroll you from your qualified health plan for the month of November 2016.

Legal Authority

We are issuing this determination in accordance with 45 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).

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 okyerε 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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