



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

Notice of Decision

Decision Date: June 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015723

[REDACTED]

Dear [REDACTED]

On May 16, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 27, 2017 disenrollment notice and February 10, 2017 verbal denial of a special enrollment period.

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: June 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015723

[REDACTED]

Issues

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

Did NY State of Health (NYSOH) properly terminate your and your spouse's dental plan for non-payment of premium, effective January 1, 2017?

Did NYSOH properly determine that you and your spouse do not qualify to enroll in a dental plan outside of the open enrollment period as of February 10, 2017?

Procedural History

On December 15, 2016, NYSOH issued a plan enrollment notice confirming in part that you and your spouse were enrolled in dental plan, effective January 1, 2017, with a \$44.66 monthly premium that had to be paid to start and keep your coverage.

On January 27, 2017, NYSOH issued a disenrollment notice confirming that your and your spouse's enrollment in that dental plan ended as of January 1, 2017. The reason stated was because you did not pay your insurance bill by the payment deadline.

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 February 11, 2017, NYSOH issued a notice to confirm your appeal request from the previous day. That notice stated that the reason for your appeal was “Denial of Special Enrollment Period “SEP”.”

On May 16, 2017, you had a telephone hearing with a Hearing Officer from NYSOH’s Appeals Unit. The record was developed during the hearing closed at the end of the proceeding.

Findings of Fact

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

- 1) You and your spouse were enrolled in a dental plan for the 2017 coverage year with a monthly premium of \$44.66, effective January 1, 2017.
- 2) You and your spouse also had health insurance coverage in a qualified health plan through NYSOH, effective January 1, 2017.
- 3) You testified that you set up automatic payment of premiums through an application counselor. You testified she only told you the amount that you had to pay for medical insurance with the same insurance company, but you assumed that was the total amount due for both medical and dental coverage.
- 4) You testified that you were not aware that there was a separate premium due for dental coverage and, had you known, you would have included that amount in your monthly automatic payment.
- 5) You and your spouse were disenrolled from your dental plan, effective January 1, 2017.
- 6) On February 10, 2017, you contacted NYSOH to re-enroll into a dental plan, but were verbally denied a special enrollment period within which to enroll.
- 7) You testified that you and your spouse have been without dental insurance in 2017.
- 8) You testified that since filing your application on December 10, 2016, there have been no major changes to your household.

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

Applicable Law and Regulations

Appealable Issues

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 NYSOH 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)).

De Novo Review

NYSOH Appeals Unit must review each appeal de novo and "consider all relevant facts and evidence adduced during the appeals process" (45 CFR § 155.535(f)). "De novo review means a review of an appeal without deference to prior decisions in the case" (45 CFR § 155.500).

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 a triggering life event occurs, such as:

- (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.

(45 CFR § 155.420(d)(4)).

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 under review is whether NYSOH properly terminated your and your spouse's enrollment in your dental plan for non-payment of premium effective January 1, 2017.

The record reflects that your and your spouse's enrollment in your health insurance plans for medical and dental coverage were effective as of January 1, 2017. Each plan had a separate monthly premium amount associated with it, as stated in the December 15, 2016 plan enrollment notice.

On January 27, 2017, NYSOH issued a notice stating that you and your spouse were disenrolled from your dental plan for non-payment of the premium, effective January 1, 2017.

NYSOH Appeals Unit only has the authority to review issues related to the following: (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 to provide timely notice of an eligibility determination and (5) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether or not you were properly terminated from your health plan for non-payment of premiums. Therefore, your appeal of the January 27, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

The second issue under review is whether NYSOH properly determined, on February 10, 2017, that you and your spouse do not qualify to enroll in a qualified health plan outside of the open enrollment period.

You testified that you are appealing the denial of a special enrollment period to enroll into a dental plan through NYSOH. However, the record does not contain a

notice of eligibility determination or redetermination on the issue of special enrollment period.

Here, the lack of a notice of eligibility determination on the issue of special enrollment periods does not prevent the Appeals Unit from reaching the merits of the case or constitute material error. Under 45 CFR § 155.505(b), you are as entitled to appeal NYSOH failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. Your credible testimony, along with the February 11, 2017 appeal confirmation notice stating that the reason for your appeal was “Denial of Special Enrollment Period “SEP””, permits an inference that NYSOH did deny your special enrollment request.

Since the Appeals Unit’s review of NYSOH determinations is performed on a de novo basis, no deference would have been granted to the eligibility determination notice had it been issued.

NYSOH provided an open enrollment period from November 1, 2016 until January 31, 2017. On February 10, 2017, you requested for both you and your spouse to be reenroll in a dental plan.

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

You credibly testified that, on December 14, 2016, you set up automatic payment of premiums with the assistance of an application counselor. You further credibly testified that the counselor did not inform you that there were two separate premiums that had to be paid and you assumed that the amount she provided was the total monthly premium due for both medical and dental coverage. The record indicates that only your dental coverage was terminated for non-payment and that your medical coverage was not, which lends itself to your testimony that the automatic payment amount did not include the premium for the dental plan unbeknownst to you. You credibly testified that, had you been informed of that separate premium amount, you would have included that amount in your automatic payment set up.

Since the record indicates that your non-enrollment into a qualified health plan was the direct result of a misstatement made to you by an application counselor with an entity providing enrollment assistance or conducting enrollment activities, you should have been granted a special enrollment period as of as of the January 27, 2017 disenrollment notice or your request on February 10, 2017 to be able to re-enroll in a dental plan.

Therefore, NYSOH's verbal determination that you do not qualify to select a health plan outside of the open enrollment period for 2017 was incorrect and is **RESCINDED**. You should have been eligible for a special enrollment period as of February 10, 2017

Your case is **RETURNED** to NYSOH to assist you in enrolling into a dental plan. You may choose to enroll into a dental plan as of March 1, 2017 because an entity of NYSOH gave you incorrect information. In the alternative, you may elect to enroll into coverage within 60 days from the date of this decision.

Decision

Your appeal of the January 27, 2017 disenrollment notice is **DISMISSED** as a non-appealable issue.

NYSOH's verbal determination that you do not qualify to select a health plan outside of the open enrollment period for 2017 was incorrect and is **RESCINDED**.

Your case is **RETURNED** to NYSOH to assist you in enrolling into a dental plan. You may choose to enroll into a dental plan as of March 1, 2017 because an entity of NYSOH gave you incorrect information. In the alternative, you may elect to enroll into coverage within 60 days from the date of this decision.

Effective Date of this Decision: June 5, 2017

How this Decision Affects Your Eligibility

You and your spouse qualify for a special enrollment period.

NYSOH will assist you in enrolling in a dental plan as of March 1, 2017 or prospectively, at your option.

You will be responsible for paying the monthly premiums due for the months that you are enrolled in the dental plan you select for yourself and your spouse.

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).

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
- By mail at:

NY State of Health Appeals
P.O. Box 11729

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).

Albany, NY 12211

- By fax: 1-855-900-5557

Summary

Your appeal of the January 27, 2017 disenrollment notice is **DISMISSED** as a non-appealable issue.

NYSOH's verbal determination that you do not qualify to select a health plan outside of the open enrollment period for 2017 was incorrect and is **RESCINDED**.

Your case is **RETURNED** to NYSOH to assist you in enrolling into a dental plan. You may choose to enroll into a dental plan as of March 1, 2017 because an entity of NYSOH gave you incorrect information. In the alternative, you may elect to enroll into coverage within 60 days from the date of this decision.

You and your spouse qualify for a special enrollment period.

NYSOH will assist you in enrolling in a dental plan as of March 1, 2017 or prospectively, at your option.

You will be responsible for paying the monthly premiums due for the months that you are enrolled in the dental plan you select for yourself and your spouse.

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。我们可以为您免费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)

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).

000 00 000000000000 0000 000 00000 00000 000 000000000 00000000 00 00000,
0000000 000 1-855-355-5777 000000 00 00000 0000 00 000000 000 0000
0000000000 0000 000000 0000 000000 0000 000000

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&tumi 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.

שׂוּדִיש (Yiddish)

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).

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).