



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

Notice of Decision

Decision Date: June 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015946

[REDACTED]

Dear [REDACTED],

On May 23, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 21, 2016 disenrollment notice and the February 18, 2017 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
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Decision Date: June 30, 2017

NY State of Health Account ID: [REDACTED]
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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 enrollment in a qualified health plan effective August 31, 2016 because of non-payment of premiums?

Did NYSOH properly determine that your enrollment in a qualified health plan, as well as the application of advance premium tax credits, was effective April 1, 2017?

Procedural History

On November 22, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$226.00 per month in advance payment of the premium tax credit (APTC), and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective January 1, 2016.

On December 6, 2015, NYSOH issued an enrollment confirmation notice, stating that you were enrolled in a silver level qualified health plan, effective January 1, 2016.

On October 20, 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, you qualified for a tax credit of up to \$213.48 per month, effective January 1, 2017. You were re-enrolled into the same health plan to avoid interruption in coverage.

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On November 21, 2016, NYSOH issued a disenrollment notice, stating that your enrollment in a qualified health plan was terminated effective August 31, 2016 because premium payments had not been received by the health plan.

On February 17, 2017, NYSOH received your updated application for health insurance. That day, a preliminary eligibility determination was prepared, stating that you were eligible to receive up to \$249.00 per month in APTC, effective April 1, 2017.

Also on February 17, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it began your financial assistance eligibility on April 1, 2017, and not January 1, 2017. You were also seeking retroactive reinstatement of your coverage effective September 1, 2016.

On February 18, 2017, NYSOH issued a notice of eligibility redetermination stating that you were eligible to receive up to \$249.00 per month in APTC. This eligibility was effective April 1, 2017.

Also on February 18, 2017, NYSOH issued a letter confirming your enrollment in a qualified health plan with a monthly premium responsibility of \$133.58, after your APTC of \$249.00 was applied, effective April 1, 2017

On May 23, 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 allow the Hearing Officer to review telephone recordings. Four recordings were reviewed and the record was closed.

Findings of Fact

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

- 1) You testified that you received the October 20, 2016 renewal notice advising you that your coverage would be continued.
- 2) You testified that you received the November 22, 2016 disenrollment notice, and contacted both the health plan and NYSOH to resolve the issue.
- 3) You testified that you checked your online account in December 2016 and it appeared that your coverage was fully reinstated.
- 4) You placed a call to NYSOH on February 17, 2017 and spoke with both a NYSOH representative and a representative with NYSOH's Account Review Unit. On that call was your significant other, who you had

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authorized as a temporary representative, as well as a representative from HealthFirst. During that call, the HealthFirst representative advised the NYSOH representative that the termination had been in error and that HealthFirst's records had been corrected to reflect coverage for the duration of 2016. The HealthFirst representative advised the NYSOH representatives that documentation had been sent to NYSOH on November 30, 2016, with a request number [REDACTED]. The NYSOH representative did not find the documentation in your NYSOH account, and advised your representative that you had to resubmit an application. The NYSOH representative stated that because of the previous termination, your auto-renewal was no longer in effect. Your representative was also advised that you did not qualify for backdating, and you filed an appeal that day.

- 5) You placed a call to NYSOH on February 21, 2017 to check the status of the appeal. You were transferred to the Account Review Unit and were advised that there is no set timeframe for an appeal.
- 6) You testified that you updated the information in your NYSOH account on February 17, 2017. That day you also reenrolled into a qualified health plan.
- 7) You testified that you spoke with NYSOH in December 2016 and confirmed that your coverage had been reinstated. There is no record in your NYSOH account that any calls were made during December 2016 or January 2017.
- 8) You testified that you had paid all of your premiums to HealthFirst, and that the disenrollment in 2016 was in error.
- 9) You testified that you are seeking to be reenrolled into a HealthFirst Silver plan effective September 1, 2016.
- 10) On April 6, 2017, NYSOH received a Certificate of Creditable Coverage through HealthFirst, stating that you were enrolled in a Silver Leaf Plan with coverage from January 1, 2016 through December 31, 2016.

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

Applicable Law and Regulations

Appealable Issues

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An applicant has the right to appeal to the Appeals Unit of NYSOH: (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; and (5) the denial of a request for a special enrollment period (45 CFR § 155.505, 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)).

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)).

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)).

Legal Analysis

The first issue under review is whether NYSOH properly terminated your enrollment in a qualified health plan effective August 31, 2016 because of non-payment of premiums.

The record indicates that you were enrolled in a qualified health plan effective January 1, 2016. On October 20, 2016, NYSOH issued a renewal notice, stating that based on information from federal and state sources, you qualified for a tax credit of up to \$213.48 per month, effective January 1, 2017. On November 21, 2016, NYSOH issued a disenrollment notice, stating that your enrollment in a

qualified health plan was terminated effective August 31, 2016 because premium payments had not been received by the health plan.

You testified that your termination of coverage had been in error, and that your plan had corrected the issue in their system. You testified that you spoke with both your qualified health plan and NYSOH in December 2016 in order to confirm that your coverage had been properly reactivated. Although you submitted a Certificate of Creditable Coverage from HealthFirst confirming coverage for the duration of 2016, your account contains no record of a call until February 17, 2017.

You testified that you were not aware that your coverage was not effective until you [REDACTED] in February 2017 and were advised that there was an issue with your insurance.

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 you were properly terminated from your qualified health plan coverage for non-payment of premiums, effective August 31, 2016. Therefore, your appeal of the November 21, 2016 disenrollment notice is DISMISSED as a non-appealable issue.

However, you submitted documentation and a review of the February 2017 phone recording indicates that HealthFirst was willing to correct your account and you were enrolled in a qualified health plan for the duration of 2016. Therefore, your case is RETURNED to Plan Management to conduct outreach to your health plan and confirm that your coverage for the duration of 2016 should be reinstated as per the certification of creditable coverage you provided to NYSOH [REDACTED]).

The second issue under review is whether NYSOH properly determined that your enrollment in a qualified health plan as well as your eligibility for advance premium tax credits was effective April 1, 2017.

The record reflects that on February 17, 2017 you updated the information in your NYSOH account and submitted a request to enroll in a qualified health plan.

Generally, when an individual changes information in their application after the 15th of any month, NYSOH will make the redetermination that results from the change effective the first day of the second 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 after the fifteenth day of a month goes into effect on the first day of the second following month.

Since you enrolled in a qualified health plan on February 17, 2017, your enrollment properly took effect on the first day of the second following month, or April 1, 2017.

Therefore, NYSOH's February 18, 2017 enrollment confirmation notices are **AFFIRMED** because they properly began your enrollment in your qualified health plan as well as your advance premium tax credits on April 1, 2017.

Decision

Your appeal of the November 21, 2016 disenrollment notice is **DISMISSED**.

The February 18, 2017 enrollment confirmation notice is **AFFIRMED**.

Your case is **RETURNED** to Plan Management to conduct outreach to your health plan and confirm that your coverage for the duration of 2016 should be reinstated as per the certification of creditable coverage you provided to NYSOH (██████████).

Effective Date of this Decision: June 30, 2017

How this Decision Affects Your Eligibility

Your enrollment in your qualified health plan properly began as of April 1, 2017.

Your case is being sent back to Plan Management to investigate whether or not you should have been reinstated in your coverage for the remainder of 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.

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).

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

Summary

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).

Your appeal of the November 21, 2016 disenrollment notice is DISMISSED.

The February 18, 2017 enrollment confirmation notice is AFFIRMED.

Your enrollment in your qualified health plan properly began as of April 1, 2017.

Your case is RETURNED to Plan Management to conduct outreach to your health plan and confirm that your coverage for the duration of 2016 should be reinstated as per the certification of creditable coverage you provided to NYSOH (██████████).

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 مجانًا.

বাংলা (Bengali)

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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. y&b&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.

אַײַדיש (Yiddish)

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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.