



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

Notice of Decision

Decision Date: June 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016106

[REDACTED]

Dear [REDACTED]

On June 8, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 12, 2017 eligibility determination and enrollment notices, and February 25, 2017 disenrollment 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: June 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016106



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 the enrollment of you and your spouse in a qualified health plan, as well as the application of advance premium tax credits, was effective February 1, 2017?

Does the Appeals Unit of NYSOH have the authority to review the termination of your and your spouse's coverage in a qualified health plan for non-payment of premiums, effective February 1, 2017?

Procedural History

On October 21, 2016 NYSOH issued a notice that it was time to renew your and your spouse's health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not determine whether you and your spouse would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2016 or you and your spouse might lose the financial assistance currently being received.

No updates were made to your account by December 15, 2016

On December 19, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a qualified health plan (QHP) at full cost. The notice further stated that you and your spouse were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing

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reductions to help pay for the cost of insurance. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame. This eligibility determination notice was effective January 1, 2017.

Also on December 19, 2016, NYSOH issued an enrollment notice advising you to select a health plan for the coverage of you and your spouse.

On January 11, 2017, NYSOH received your updated application for health insurance.

On January 12, 2017, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were eligible for an advance premium tax credit (APTC) of up to \$203.00 per month. This eligibility was effective February 1, 2017.

Also on January 12, 2017, NYSOH issued an enrollment notice confirming your selection of a QHP with a monthly premium responsibility of \$1,591.24, after your APTC of \$203.00 was applied, effective February 1, 2017.

On February 22, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it began your QHP coverage and financial assistance eligibility on February 1, 2017 and not January 1, 2017.

On February 25, 2017, NYSOH issued a termination notice confirming that the QHP coverage for you and your spouse was cancelled effective February 1, 2017 due to non-payment of premiums.

On June 8, 2017, 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 support the following findings of fact:

- 1) You testified, and the record reflects, that you receive all of your notices from NYSOH by electronic mail.
- 2) Your account reflects that you elected to receive all electronic alerts from NYSOH to your e-mail address [REDACTED]. You testified that this is your personal e-mail address, but that you rarely check this e-mail address as you typically correspond on your business e-mail address.

- 3) You testified that you do not recall receiving an e-mail alert from NYSOH to your personal e-mail account telling you that you needed to update your application to renew your eligibility, but conceded that you might not have seen them if they were redirected to your spam folder within that account.
- 4) The QHP coverage for you and your spouse ended effective December 31, 2016.
- 5) Your NYSOH account reflects that you revised your application on January 11, 2017.
- 6) You and your spouse were found eligible for an APTC of \$203.00 per month, effective February 1, 2017. You enrolled both you and your spouse in a QHP on January 11, 2017.
- 7) You and your spouse were disenrolled from your QHP coverage effective February 1, 2017 for non-payment of premiums.
- 8) You testified that your payments to the insurance carrier were set up on auto-pay, but there was a lot going on during January 2017, and the payments may not have been properly processed.
- 9) You testified that you were without health insurance during the month of January 2017.
- 10) You testified that since filing your application on January 11, 2017 there have been no other major changes to your household.
- 11) You testified that you were seeking not only to reinstate your coverage during the month of January 2017, but also to resume your coverage beginning February 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

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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 information and 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.

Redetermination During a Benefit Year

When an eligibility redetermination results in a change in the amount of APTC for a part of the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made (or not 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 the overall benefit year (45 CFR § 155.330(g)).

Any change resulting from redeterminations during a benefit year should be made effective the first day of the month following the date of the notice of redetermination, except that redeterminations resulting from changes made after a date specified by the state, which can be no earlier than the 15th of the month, may not be made effective until the first day of the month after the month following the date of the notice of redetermination. (45 CFR § 155.330(f)(1) and (2)). New York has specified that changes made after the 15th of a given month will take effect the month after the following month.

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)).

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,

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including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (4) 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)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that the enrollment of you and your spouse in a QHP as well as your eligibility for APTC was effective February 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 an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you and your spouse would qualify for financial help with paying for your health coverage. You were asked to update the information in your account by December 15, 2016 or the financial help you and your spouse were receiving might end.

Because there was no timely response to this notice, the eligibility of you and your spouse for financial assistance and your enrollment in a qualified health plan was terminated effective December 31, 2016.

You testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. The credible evidence of record reflects that you elected to receive e-mail alerts from NYSOH to your personal e-mail address [REDACTED]. You testified that this is your personal e-mail address, but that you rarely check this e-mail address as you typically correspond through your business e-mail address.

You testified that you do not recall receiving an e-mail alert from NYSOH to your personal e-mail account telling you that you needed to update your application to renew your eligibility, and conceded that you might not have seen them if they were redirected to your spam folder within that account.

We, therefore, find that there is insufficient evidence to show that NYSOH e-mail alerts were not sent to the e-mail address that you provided to NYSOH. Accordingly, the credible evidence of record reflects that NYSOH properly

notified you of your annual renewal and that information in your NYSOH account needed to be updated to ensure your enrollment in your health plan and eligibility for financial assistance would continue.

The record shows that on January 11, 2017 you updated the information in your NYSOH account and submitted a request to enroll in a qualified health plan.

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 an including the fifteenth day of a month goes into effect on the first day of the following month.

Therefore, NYSOH's January 12, 2017 eligibility determination notice and 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 February 1, 2017.

The second issue under review is whether NYSOH has the authority to review the termination of you and your spouse's QHP for non-payment of premiums effective, February 1, 2017.

On January 11, 2017, you were enrolled in a QHP for the 2017 coverage year with a monthly premium of \$1,591.24, after your APTC of \$203.00 was applied, effective February 1, 2017.

You testified that your payments to the insurance carrier were set up on auto-pay, but there was a lot going on during January 2017, and the payments may not have been properly processed.

On February 25, 2017, NYSOH issued a notice stating that you were disenrolled from your health plan for non-payment of the premium, effective February 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) a failure to provide timely notice of an eligibility determination, and (4) 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

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whether or not you and your spouse were properly terminated from the health plan for non-payment of premiums. Therefore, your appeal of the February 25, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

Since there has been no determination issued on the eligibility of you and your spouse for a special enrollment period to enroll in a plan for the remainder of 2017, your case is RETURNED to NYSOH to redetermine the eligibility of you and your spouse for a special enrollment period.

Decision

The January 12, 2017 eligibility determination notice is AFFIRMED.

The January 12, 2017 enrollment notice is AFFIRMED.

Your appeal of the February 25, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

Your case is RETURNED to NYSOH to redetermine the eligibility of you and your spouse for a special enrollment period.

Effective Date of this Decision: June 28, 2017

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

The enrollment of you and your spouse in your QHP, and your eligibility for APTC, properly began as of February 1, 2017, You and your spouse were subsequently terminated from this coverage, effective February 1, 2017 for non-payment of premiums.

Your case is being sent back to NYSOH to issue a new determination with respected to you and your spouse's eligibility for a special enrollment period.

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 January 12, 2017 eligibility determination notice is AFFIRMED.

The January 12, 2017 enrollment notice is AFFIRMED.

The enrollment of you and your spouse in your QHP, and your eligibility for APTC, properly began as of February 1, 2017, You and your spouse were subsequently terminated from this coverage, effective February 1, 2017 for non-payment of premiums.

Your appeal of the February 25, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

Your case is being sent back to NYSOH to issue a new determination with respect to you and your spouse's eligibility for a special enrollment period.

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)

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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.

שׂוֹדִיִּשׁ (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.

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