



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

Notice of Decision

Decision Date: June 14, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016146

[REDACTED]

Dear [REDACTED],

On June 2, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 15, 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 NY State of Health 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 14, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016146

[REDACTED]

Issues

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

Did NY State of Health (NYSOH) properly deny your request to enroll in a qualified health plan outside the open enrollment period as of February 15, 2017?

Procedural History

On December 3, 2016, NYSOH issued a plan enrollment notice confirming that you were enrolled in a qualified health plan (QHP) with a premium of \$176.55 per month and a dental plan with a premium of \$22.33 per month, effective January 1, 2017. That notice also stated that, if you do not make your monthly premium payments on time, you could lose your health insurance.

On February 1, 2017, NYSOH issued a disenrollment notice stating your insurance with your QHP was terminated effective January 1, 2017, because a premium payment had not been received by the health plan. That notice directed you to contact your plan directly if you believed you made your premium payment.

On February 15, 2017, NYSOH issued an eligibility determination notice, based on your February 14, 2017 application, stating in relevant part that you do not qualify to select a health plan outside of the open enrollment period for 2017.

On February 23, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as you did not qualify to enroll into a QHP outside of the open enrollment period.

On June 2, 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 June 16, 2017, to allow you to submit supporting documents.

On June 2, 2017, you submitted proof of your 2016 income tax return and your 2016 W-2 Wage Statement. This documentation was made part of the record as "Appellant's Exhibit A" and the record is now closed.

Findings of Fact

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

- 1) On February 14, 2017, you applied for health insurance through NYSOH. You attempted to enroll in a health plan that day but were denied a special enrollment period.
- 2) According to your NYSOH account, you failed to pay your January 2017 premium and were disenrolled from your QHP effective January 1, 2017.
- 3) You testified that you did not pay your premium because when you made a payment to your dental plan, you assumed it included your health insurance premium.
- 4) You testified, and submitted documentation, that your income of \$28,000.00 as attested to on your December 2, 2016 application is incorrect. Your gross annual household income is \$45,905.00 in earnings from employment.
- 5) You testified that you need health insurance.
- 6) You testified that since filing your application on December 2, 2016 there have been no other major changes to your household.
- 7) You testified that you sought reinstatement of your QHP through your health plan provider, but they refused to reinstate you and directed you to contact NYSOH.
- 8) According to your NYSOH account and your testimony, you live in Kings County, NY.

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 QHP, 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 involuntarily loses certain health insurance coverage:

- (a) Health insurance considered to be minimum essential coverage;
- (b) Enrolled in any non-calendar year health insurance policy, even if they have the option to renew the expiring non-calendar year individual health insurance policy; or
- (c) Pregnancy-related coverage; or
- (d) Medically needy coverage...

(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 QHP (45 CFR § 155.420(c)(1)).

However, a loss of health insurance coverage such as that referenced above does not include,

“voluntary termination of coverage or other loss due to—

(1) Failure to pay premiums on a timely basis, including COBRA premiums prior to expiration of COBRA coverage, or

(2) Situations allowing for a rescission as specified in 45 CFR [§] 147.128”

(45 CFR § 155.420(e)).

Legal Analysis

The issue under review is whether NYSOH properly denied you a special enrollment period as of February 15, 2017.

NYSOH provided an open enrollment period from November 1, 2016 until January 31, 2017. On February 14, 2017, you requested to enroll in a health plan, but were denied a special 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.

On December 3, 2016, NYSOH issued a plan enrollment notice stating that you were enrolled in a health plan effective January 1, 2017. That notice further stated you must pay your monthly premiums on time or risk losing your health insurance.

On February 1, 2017, NYSOH issued a disenrollment notice stating your insurance with your QHP was terminated effective January 1, 2017, because a premium payment had not been received by the health plan. That notice directed you to contact your plan directly if you believed you made your premium payment. You testified that you contacted the health plan and requested reinstatement of your health insurance; that the health plan refused and directed you to contact NYSOH.

On February 14, 2017, you contacted NYSOH and, as confirmed in the February 15, 2017 eligibility determination notice, you were denied a special enrollment period within which to select a QHP for coverage to resume in 2017.

Ordinarily, the loss of health insurance coverage is considered a triggering event. Here, you testified you did not pay your premiums because you believed that your dental premium included your health insurance premium. However, it is unclear as to how you would have confused a \$22.33 monthly premium with a \$176.55 monthly premium. It is clear from your testimony and your health plan’s

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disenrollment that you failed to pay your January 2017 health insurance premium.

NYSOH considers the failure to pay premiums resulting in the loss of health insurance coverage to be a voluntary action and not a qualifying or triggering event for a special enrollment period to be granted. Since you were terminated for not paying your January 2017 premium, you would not be entitled to a special enrollment period in which to enroll in new coverage on this basis.

Your NYSOH account 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, the February 15, 2017 eligibility determination notice is AFFIRMED because NYSOH properly denied your request for a special enrollment period.

Decision

The February 15, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: June 14, 2017

How this Decision Affects Your Eligibility

You do not qualify for a special enrollment period at this time.

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)).

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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

The February 15, 2017 eligibility determination notice is **AFFIRMED**.

You do not qualify for a special enrollment period at this time.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545.

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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. 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.

שׂוּדִישׁ (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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