



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

Notice of Decision

Decision Date: June 23, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016505

[REDACTED]

Dear [REDACTED],

On June 12, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 28, 2017, enrollment 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).

This page intentionally left blank.



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

Decision

Decision Date: June 23, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016505

[REDACTED]

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 you and your spouse did not qualify to enroll in a qualified health plan (QHP) outside of the open enrollment period?

Procedural History

On February 1, 2017, you a completed financial assistance application was submitted for you and your spouse.

On February 2, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible for a tax credit up to \$546.00 per month and cost-sharing reductions, effective as of March 1, 2017.

On February 28, 2017, NYSOH issued an enrollment notice stating, in relevant part, that you and your spouse did not qualify to select a health plan outside of the open enrollment period for 2017.

On March 2, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as your and your spouse's eligibility for a special enrollment period.

Also on March 2, 2017, additional documentation was uploaded to your account

[REDACTED]

On June 12, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, and the record was closed at the end of the hearing.

Findings of Fact

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

- 1) According to the "events tab" in your NYSOH account, your account was created on January 31, 2017, at 11:19 pm.
- 2) You testified that you were kicked out of your NYSOH account on January 31, 2017, at approximately 11:50 pm and were unable to log back into your account.
- 3) You testified that you were unable to finish your household's application because you were unable to log into your NYSOH account.
- 4) You testified that you took a screenshot of your cell phone screen on January 31, 2017, and February 1, 2017. The screenshot indicates that at 11:59 pm and 12:07 am the "Marketplace [was] currently unavailable" ([REDACTED]).
- 5) According to your NYSOH account and testimony, your and your spouse's application was completed on February 1, 2017.
- 6) You testified you are seeking to enroll you and your spouse in a health plan prospectively through NYSOH.

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

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).

After each open enrollment period ends, NYSOH provides special enrollment periods to qualified individuals or enrollees. 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 (45 CFR § 155.420(a)(1)).

A special enrollment period may be granted to a qualified individual or enrollee, or his or her dependent, if they demonstrate to NYSOH, in accordance with guidelines issued by HHS, that they meet the criteria of an exceptional circumstance (45 CFR § 155.420(d)(9)).

CMS has specified that “error messages” is an exceptional circumstance that would grant an individual a special enrollment period. “A consumer is not able to complete enrollment due to error messages” (Guidance for Issuers on Special Enrollment Periods for Complex Cases in after the Initial Open Enrollment Period, Affordable Exchange Guidance, Department of Health & Human Services, CMS, dated March 26, 2014, as retrieved on June 13, 2017 at: <https://www.cms.gov/ccio/resources/regulations-and-guidance/downloads/complex-cases-sep-3-26-2014.pdf>)

Special Enrollment Period – Effective Date

If a qualified individual or enrollee is eligible for a special enrollment period as described in 45 CFR § 155.420(d)(9), NYSOH must ensure that coverage is effective on an appropriate date based on the circumstances of the special enrollment period (45 CFR § 155.420(b)(2)(iii)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse did not qualify to enroll in a QHP outside of the open enrollment period.

NYSOH provided an open enrollment period from November 1, 2016 until January 31, 2017. Once the annual open enrollment period ends, an individual must qualify for a SEP in order 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.

The record reflects that you created an account on January 31, 2017. However, you were kicked out of your NYSOH account on that date and was unable to log back into your account.

Centers for Medicare & Medicaid Services (CMS) has provided guidance for providing special enrollment periods in exceptional circumstances. A special

enrollment period can be granted if a qualified individual is unable to complete their enrollment due to error messages.

The record reflects that you were unable to complete your and your spouse's application and enrollment on January 31, 2017, due an issue with NYSOH's website. This issue prohibited you from submitting an application and enrolling in health insurance coverage through NYSOH during the open enrollment period.

Therefore, the February 28, 2017, enrollment notice stating insofar as that you and your spouse did not qualify to select a health plan outside of the open enrollment period for 2017 is **RESCINDED**.

The record reflects that you are seeking to enroll you and your spouse in a health plan prospectively through NYSOH.

Your case is **RETURNED** to NYSOH to assist you and your spouse in enrolling into a qualified health plan. You must enroll into coverage within 60 days from the date of this decision, and the coverage shall be effective prospectively.

Decision

The February 28, 2017, enrollment notice stating insofar as that you and your spouse did not qualify to select a health plan outside of the open enrollment period for 2017 is **RESCINDED**.

Your case is **RETURNED** to NYSOH to assist you and your spouse in enrolling into a qualified health plan. You must enroll into coverage within 60 days from the date of this decision, and the coverage shall be effective prospectively.

Effective Date of this Decision: June 23, 2017

How this Decision Affects Your Eligibility

NYSOH improperly denied you and your spouse a special enrollment period.

Your case is being sent back to NYSOH to allow you to enroll into health insurance coverage. You must enroll into coverage within 60 days from the date of this decision, and the coverage shall be effective prospectively.

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).

The February 28, 2017, enrollment notice stating insofar as that you and your spouse did not qualify to select a health plan outside of the open enrollment period for 2017 is RESCINDED.

Your case is RETURNED to NYSOH to assist you and your spouse in enrolling into a qualified health plan. You must enroll into coverage within 60 days from the date of this decision, and the coverage shall be effective prospectively.

NYSOH improperly denied you and your spouse 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।

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).

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 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.

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.

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).