



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

Notice of Decision

Decision Date: July 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016818



Dear [REDACTED],

On June 22, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 8, 2017 disenrollment notice and March 16, 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 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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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 determine that your spouse's enrollment in [REDACTED] qualified health plan was terminated effective March 31, 2017?

Did NYSOH properly determine that your spouse does not qualify to enroll in a qualified health plan outside of the open enrollment period, effective April 1, 2017?

Procedural History

On December 1, 2016, NYSOH received your application for health insurance.

On December 2, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible purchase a qualified health plan at full cost, effective January 1, 2017. It further directed you to produce proof of citizenship for your spouse by March 1, 2017.

On March 7, 2017, an application for health insurance was run on your behalf.

On March 8, 2017, NYSOH issued an eligibility determination notice stating that you were eligible purchase a qualified health plan at full cost, effective April 1, 2017.

Also on March 8, 2017, NYSOH issued a disenrollment notice, stating that your spouse's coverage would end effective March 31, 2017.

Also on March 8, 2017, NYSOH issued a discontinuance notice, stating that your spouse was no longer eligible to receive coverage through NYSOH because citizenship documentation had not been received.

On March 13, 2017, NYSOH received your application for health insurance. That day, a preliminary eligibility determination was prepared stating that you and your spouse were eligible to purchase a qualified health plan at full cost, effective April 1, 2017. You also attempted to enroll your spouse in a qualified health plan but were unable to select a plan for enrollment.

On March 13, 2017, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination insofar as your spouse was not eligible to enroll in a health plan outside of the open enrollment period.

On March 14, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost, and your spouse was conditionally eligible to purchase a qualified health plan at full cost, effective April 1, 2017. You were directed to produce proof of citizenship for your spouse.

On March 15, 2017, NYSOH received your updated application for health insurance and you submitted a copy of your spouse's United States passport.

On March 16, 2017, NYSOH issued an eligibility determination stating that you and your spouse were eligible to purchase a qualified health plan at full cost, effective April 1, 2017. It further stated that you and your spouse do not qualify to select a health plan outside of the open enrollment period for 2017.

On June 4, 2017, you resubmitted a copy of your spouse's United States passport.

On June 22, 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 supports the following findings of fact:

- 1) On December 1, 2016, you submitted an application for health insurance with the assistance of a certified application counselor.

- 2) You testified that the application counselor did not advise you that NYSOH requested documentation to prove your spouse's citizenship.
- 3) You testified that you were not aware that you were required to submit documentation regarding your spouse's citizenship. You also testified that although your spouse was born in [REDACTED] [REDACTED] is a US citizen and has been in the United States since 1968.
- 4) You testified, and the record reflects, that you receive all of your notices from NYSOH via regular mail.
- 5) You testified that you did not receive any notices stating that your spouse's eligibility was only conditional and that you needed to provide documentation of your citizenship status.
- 6) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 7) You testified that on March 13, 2017 you called NYSOH and were told that you missed the deadline to submit proof of citizenship documentation for your spouse. You were advised that you could wait until open enrollment to select a plan for [REDACTED], or you could file an appeal.
- 8) On March 15, 2017, you submitted a copy of your spouse's US passport.
- 9) You testified that since filing your application, 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

Citizenship and Immigration Status

To enroll in a qualified health plan through the Marketplace, an applicant must be a citizen or national of the United States, or a non-citizen lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

The Marketplace must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

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If an applicant attests to citizenship, status as a national, or lawful presence, and the Marketplace is unable to verify such attestation, the Marketplace must provide the applicant 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5 day period. (45 CFR § 155.315(c)(3)).

If the Exchange remains unable to verify the attestation after the 90 day period ends, then it must determine the applicant's eligibility based on the information available in the data sources (45 CFR § 155.315(f)(5)(i)).

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 one of the following triggering events occur:

- (1) The qualified individual or his or her dependent either:
 - (i) Loses minimum essential coverage.
 - (ii) Is enrolled in any non-calendar year group health plan or individual health insurance coverage, even if the qualified individual or his or her dependent has the option to renew such coverage.
 - (iii) Loses pregnancy-related coverage.
 - (iv) Loses medically needy coverage as described under section 1902(a)(10)(C) of the Social Security Act only once per calendar year.

(2)(i) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care, or through a child support order or other court order.

(ii) the enrollee loses a dependent or is no longer considered a dependent through divorce or legal separation as defined by State law in the State in which the divorce or legal separation occurs, or if the enrollee, or his or her dependent, dies.

(3) The qualified individual, or his or her dependent, becomes newly eligible for enrollment in a qualified health plan because he or she gains citizenship, status as a national, or lawful present or is no longer incarcerated.

(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.

(5) The enrollee or, his or her dependent adequately demonstrates to NYSOH that the qualified health plan in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee;

(6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or change in eligibility for cost-sharing reductions.

(7) The qualified individual or enrollee, or his or her dependent, gains access to new qualified health plan as a result of a permanent move and either—

(i) Had minimum essential coverage for one or more days during the 60 days preceding the date of the permanent move, or

(ii) Was living outside of the United States or in a United States territory at the time of the permanent move;

(8) The qualified individual or dependent who gains or maintains status as an Indian may enroll in a qualified health plan or change from one plan to another, once per month.

(9) The qualified individual or enrollee, or his or her dependent, demonstrates to the Exchange, in accordance with guidelines issued by

HHS, that the individual meets other exceptional circumstances as the Exchange may provide;

(10) A qualified individual or enrollee—

(i) Is a victim of domestic abuse or spousal abandonment, including a dependent or unmarried victim within a household, is enrolled in minimum essential coverage and seeks to enroll in coverage separate from the perpetrator of the abuse or abandonment; or

(ii) Is a dependent of a victim of domestic abuse or spousal abandonment, on the same application as the victim, may enroll in coverage at the same time as the victim;

(11) A qualified individual or dependent—

(i) Applies for coverage through NYSOH during the annual open enrollment period or due to a qualifying event, is assessed as potentially eligible for Medicaid or Child Health Plus and is determined ineligible for Medicaid or Child Health Plus either after open enrollment has ended or more than 60 days after the qualifying event; or

(ii) Applies for coverage at their Local Department of Social Services or Human Resources Administration during the annual open enrollment period, and is determined ineligible for Medicaid or Child Health Plus after open enrollment has ended;

(12) The qualified individual or enrollee, or his or her dependent, adequately demonstrates to NYSOH that a material error related to plan benefits, service area, or premium influenced the qualified individual's or enrollee's decision to purchase a qualified health plan; or

(13) At the option of NYSOH, the qualified individual provides satisfactory documentary evidence to verify his or her eligibility for an insurance affordability program or enrollment following termination of enrollment due to a failure to verify such status within 90 days.

(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 qualified health plan (45 CFR § 155.420(c)(1)).

Legal Analysis

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 first issue under review is whether NYSOH properly determined that your spouse was no longer eligible to enroll in a qualified health plan, effective March 31, 2017.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through the Marketplace, and must confirm, among other things, that their citizenship status is satisfactory. If NYSOH cannot verify an individual's citizenship status, it must provide the individual a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on December 2, 2016, you were advised that your spouse's eligibility was only conditional, and that you needed to confirm your spouse's citizenship status before March 1, 2017.

You testified, and the record reflects, that you receive all of your notices from NYSOH via regular mail. You testified that you did not receive any notices stating that your spouse's eligibility was only conditional and that you needed to provide documentation of your citizenship status. No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable. Therefore, NYSOH issued proper notice that your spouse's eligibility was only conditional and that additional documentation was needed to confirm [REDACTED] eligibility.

NYSOH did not receive the requested citizenship documentation before the deadline.

If NYSOH remains unable to verify the inconsistency after the 90-day period ends, then it must determine the applicant's eligibility based on the information available in the data sources.

Since the requested citizenship status was not received within the 90-day period, NYSOH was required to redetermine your spouse's eligibility without verification of his citizenship status. As a result, NYSOH properly determined that your spouse could not enroll in a qualified health plan through NYSOH effective March 31, 2017 because you did not provide the information requested.

Therefore, the March 8, 2017 disenrollment notice is correct and is **AFFIRMED**.

The second issue under review is whether NYSOH properly determined that your spouse does not qualify to enroll in a qualified health plan outside of the open enrollment period, effective April 1, 2017.

On March 15, 2017, you provided documentation of your spouse's citizenship status. Your spouse's eligibility was redetermined and on March 16, 2017, a notice was issued that stated that your spouse was eligible to purchase a

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qualified health plan at full cost, effective April 1, 2017. However, the notice further stated that your spouse did not qualify to select a health plan outside of the open enrollment period.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period 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.

Generally, the loss of health insurance coverage is considered a triggering event. Here, your spouse's enrollment was terminated effective March 31, 2017 because you failed to confirm his citizenship status within the required timeframe. NYSOH considers your failure to provide proof of citizenship as a voluntary action causing the termination of your coverage; therefore, your spouse would not be entitled to a special enrollment period in which to enroll in new coverage on this basis.

The credible evidence of record 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, NYSOH's March 16, 2017 eligibility determination that you and your spouse do not qualify to select a health plan outside of the open enrollment period for 2017 is AFFIRMED.

Decision

The March 8, 2017 disenrollment notice is AFFIRMED.

The March 16, 2017 eligibility determination is AFFIRMED.

Effective Date of this Decision: July 3, 2017

How this Decision Affects Your Eligibility

Your spouse was properly disenrolled from ■ qualified health plan for failure to submit citizenship documentation.

NYSOH properly denied your spouse a special enrollment period.

If You Disagree with this Decision (Appeal Rights)

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 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
Albany, NY 12211

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- By fax: 1-855-900-5557

Summary

The March 8, 2017 disenrollment notice is AFFIRMED.

Your spouse was properly disenrolled from [REDACTED] qualified health plan for failure to submit citizenship documentation.

The March 16, 2017 eligibility determination is AFFIRMED.

NYSOH properly denied 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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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।

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&btumi 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.

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