



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

Notice of Decision

Decision Date: July 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017395

[REDACTED]

Dear [REDACTED],

On July 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 29, 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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Decision

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[REDACTED]

[REDACTED]

[REDACTED]

Issues

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

Did NY State of Health give you reasonable notice that your health insurance coverage would end March 31, 2017, for failure to timely submit proof of citizenship status?

Did NY State of Health (NYSOH) properly determine that you do not qualify to enroll in a qualified health plan outside of the open enrollment period, effective May 1, 2017?

Procedural History

On December 3, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to receive an advance premium tax credit (APTC) of up to \$109.00 per month, for a limited time, effective January 1, 2017. The notice directed you to provide documentation confirming your citizenship status before March 2, 2017.

Also on December 3, 2016, NYSOH issued a plan enrollment notice confirming your enrollment in a qualified health plan, effective January 1, 2017.

On March 9, 2017, NYSOH issued an eligibility determination notice stating that you were not eligible for Medicaid, Child Health Plus, Essential Plan, or to receive tax credits or cost sharing reductions to help pay for the cost of insurance. That notice also stated that you could not enroll in a qualified health

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plan at full cost through NY State of Health because you did not provide proof of your citizenship status. Your eligibility was to end effective April 1, 2017.

Also on March 9, 2017, NYSOH issued a disenrollment notice stating that you were terminated from your qualified health plan, effective March 31, 2017.

On March 28, 2017, NYSOH received your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible to receive up to \$109.00 per month in APTC, effective May 1, 2017. You also attempted to enroll into a qualified health plan but were unable to select a plan for enrollment.

Also on March 28, 2017, you spoke to NYSOH's Account Review Unit and appealed your inability to enroll into a qualified health plan outside of the open enrollment period.

On March 29, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$109.00 per month in APTC, effective May 1, 2017. It further stated that you do not qualify to select a health plan outside of the open enrollment period for 2017.

On July 13, 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 July 28, 2017, to allow you to submit supporting documents.

On July 13, 2017, you submitted a copy of your permanent resident card. This document was made part of the record as "██████████." The record closed that day.

Findings of Fact

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

- 1) In the December 3, 2016 eligibility determination notice, you were directed to provide documentation confirming your citizenship status before March 2, 2017.
- 2) According to your NYSOH account and your testimony, no proof of citizenship status was received by NYSOH by March 2, 2017.
- 3) Your eligibility ended effective April 1, 2017.
- 4) On March 28, 2017, you updated your account and attempted to enroll in a qualified health plan but were unable to do so. You testified that you were told that because you never submitted your proof of citizenship

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status, you were disenrolled and it was too late for you to send it in. You offered to send in a copy of your permanent resident card, but the NYSOH refused to accept it.

- 5) On July 13, 2017, you submitted a copy of your permanent resident card which shows that you have been a permanent resident since October 16, 2012.
- 6) You testified that you are appealing because you are an [REDACTED] [REDACTED] and you need health insurance.

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)).

Citizenship and Immigration Status for Qualified Health Plan

To enroll in a qualified health plan through NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen who is 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)).

NYSOH 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)).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 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), (f)(2)(i)).

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

Notice – Terminating Enrollment

NYSOH may initiate termination of an enrollee's enrollment in a health plan through NYSOH and must permit a health plan issuer to terminate such coverage or enrollment when the enrollee is no longer eligible for coverage in a health plan through NYSOH with appropriate notice to the enrollee (45 CFR § 155.430(b)(2)(i), (d)).

For Marketplace-initiated terminations where the enrollee is no longer eligible for coverage in a health plan through its Marketplace, the last day of enrollment is the last day of eligibility, as described in 45 CFR § 155.330(f) (45 CFR § 155.430(d)(3)).

Notice of the effective dates for termination of coverage or enrollment must be reasonable, which is defined as at least fourteen days before the requested date of termination (45 CFR § 155.430(d)(1)(i)-(ii)).

Effective dates of termination of coverage or enrollment must be implemented by NYSOH as follows:

- 1) When resulting from a redetermination, the termination date is the first day of the month following the date of the written notice, which must be at least fourteen days before the requested date of termination to be considered timely; or
- 2) When resulting from an appeal decision, on the date specified in the appeal decision; or
- 3) When affecting enrollment or premiums only, on the first day of the month following the date on which the Marketplace is notified on the change.

(45 CFR § 155.330(f)(1)(i)-(iii)).

Cancellation or discontinuance of coverage is permitted when it has only a prospective effect or when the cancellation or discontinuance of coverage is initiated by NYSOH pursuant to 45 CFR § 155.430 . (45 CFR § 147.128(a)(2)(i) and (iv)).

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...
- (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. NYSOH has not elected to adopt this subsection at this time.

(45 CFR § 155.420(d)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you do not qualify to enroll in a qualified health plan outside of the open enrollment period, effective May 1, 2017, after being cancelled for failure to timely provide proof of your citizenship/immigration status.

Initially, NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, whether an applicant is a citizen or national of the United States or a non-citizen who is lawfully present in the United States.

If NYSOH cannot verify an individual's citizenship status, it must provide the individual with notice of the inconsistency. NYSOH must then provide the

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individual with a period of 90 days from the date notice is received to resolve the inconsistency.

The record reflects that you were given 90 days, until March 2, 2017, to submit documentation to confirm your citizenship, yet none was submitted. Since, NYSOH could not verify your eligibility as of that date, it redetermined your eligibility based on the information available in your account, including that it lacked proof of citizenship.

As a result, your health insurance enrollment was terminated effective March 31, 2017, because you failed to provide documentary proof to confirm your citizenship status within the required timeframe, as stated in the March 9, 2017 eligibility determination and disenrollment notices.

Generally, cancellation or discontinuance (disenrollment) of coverage is permitted when it has only a prospective effect or when the cancellation or discontinuance of coverage is initiated by NYSOH under certain circumstances. For NYSOH-initiated terminations where the enrollee is no longer eligible for coverage in a health plan through its Marketplace, the last day of enrollment is the last day of eligibility, provided reasonable notice is provided of the impending cancellation or discontinuance. Reasonable notice is defined as 14 days in advance of the date of cancellation or discontinuance.

Fourteen days written notice of termination of coverage or enrollment is required, which means notice should have been sent no later than March 17, 2016. Since both notices were timely issued before that date and discountenance was to occur prospectively, you received proper notice that your coverage was to be terminated as of March 31, 2017.

Next, NYSOH provided an open enrollment period from November 1, 2016 until January 31, 2017. On March 28, 2017, after the open enrollment period had ended, you submitted an updated application for health insurance and requested to enroll in a qualified health plan. On March 29, 2017, NYSOH issued a notice stating in relevant part that you do not qualify to enroll in a qualified 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 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.

Your disenrollment from your qualified health plan, while a loss of minimum essential coverage, was a direct result of failure to provide documentation to confirm your citizenship status. At present, NYSOH has elected not to accept documentation even if it is made available within 90 days following disenrollment,

as in your case. Therefore, you 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 29, 2017 eligibility determination notice stating that you do not qualify to select a health plan outside of the open enrollment period for 2017 is **AFFIRMED**.

Decision

The March 29, 2017 eligibility determination notice is **AFFIRMED**.

Effective Date of this Decision: July 20, 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)).

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

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- 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 March 29, 2017 eligibility determination notice is AFFIRMED.

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

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

[REDACTED]

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).

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. يمكننا 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 বিনামূলে আমরা আপনাকে একজন দোভাসী দিতে পারি।

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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 nkyerɛkyerɛmu a, ye sre wo, frɛ 1-855-355-5777. yɛbɛtumi ama wo obi a ɔkyerɛ kasa a woka no ase ama wo kwa a wontua hwhee.

(Urdu) اردو

یہ ایک ایم 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)

דא איז א וויכטיגער דאקטומענט. אויב איר דארפֿט הילפֿ עס צו פֿאָרטשטיין, בִּינְעַ רּוֹפְּט 1-855-355-5777. מִיר קָעָנוּן אַיר גַּעַבְן אַדְלָמְעַטְשָׁר פֿרְיִי פֿון אַפְּצָאַל אַין דִּי שְׁפָרָאַךְ וְאַסְ אַיר רַעַדְטַ.