



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

Notice of Decision

Decision Date: August 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017821

[REDACTED]

Dear [REDACTED],

On July 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 20, 2017 plan enrollment, March 17, 2017 eligibility determination and March 18, 2017 plan enrollment notices.

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: August 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017821



Issues

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

Did NY State of Health properly determine that your enrollment in a qualified health plan was effective March 1, 2017?

Did NY State of Health properly determine that your eligibility for a qualified health plan ended effective March 1, 2017?

Did NYSOH properly determine that your eligibility for and enrollment in the Essential Plan was effective May 1, 2017?

Procedural History

On December 11, 2016, NY State of Health (NYSOH) issued an eligibility determination notice, based on your December 10, 2016 updated application, stating that you were eligible to enroll in a qualified health plan (QHP) for a limited time with an advance payment of the premium tax credit (APTC) in an amount of up to \$255.00 per month, effective January 1, 2017. That notice further directed you to provide proof of income before March 10, 2017 to confirm your eligibility.

On January 20, 2017, NYSOH issued a plan enrollment notice, based on your December 10, 2016 plan selection, confirming your enrollment in a QHP with a premium of \$142.02 per month, effective March 1, 2017.

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).

On March 17, 2017, NYSOH issued an eligibility determination notice, based on a March 16, 2017 system update, stating that you were eligible to enroll in an Essential Plan at no cost, effective May 1, 2017.

On March 18, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in an Essential Plan, effective May 1, 2017.

On April 6, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it began your enrollment in an Essential Plan on May 1, 2017 and not March 1, 2017.

On July 20, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. A request to amend the appeal to include changing the start date of your QHP to January 1, 2017 was granted and testimony was received. 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 10, 2016, you were found eligible for a qualified health plan for a limited time, effective January 1, 2017 pending submission of proof of income documentation before March 10, 2017.
- 2) According to your NYSOH account, you were not enrolled in a QHP by NYSOH at that time because you had not selected a plan.
- 3) You testified that this information is erroneous and that you did select a health plan on December 10, 2016, which should have been effective January 1, 2017.
- 4) According to the telephone call recording dated December 10, 2016, when you updated your account and attested to a gross annual household income of \$25,000.00, you also selected and enrolled in a Blue Cross Blue Shield (BCBS) QHP with a cost of \$142.02 per month.
- 5) You testified that you did not know that you were not enrolled in a qualified health plan until you called the health plan in January 2017 because you did not receive any bill or insurance cards. You were told by a health plan representative that you were not in their system yet and were directed to contact NYSOH.
- 6) According to the telephone recording, dated January 12, 2017, you advised the representative that you thought you picked a plan but

when you spoke to the health plan, they had not received any information about it. The NYSOH representative stated that you were enrolled in BCBS and further advised you that your application is pending documentation.

- 7) According to your NYSOH account, on January 19, 2017, NYSOH received your updated application for health insurance and you once again selected BCBS for enrollment, effective March 1, 2017. You were also advised that you had income documentation outstanding that needed to be submitted by March 10, 2017.
- 8) According to your NYSOH account, you did not submit any proof of income by the deadline.
- 9) According to your NYSOH account, on March 16, 2017, the system updated your account based on information from federal and state data sources and you were found eligible for an Essential Plan, effective May 1, 2017.
- 10) According to your NYSOH account, on March 17, 2017, NYSOH automatically enrolled you in an Essential Plan, effective May 1, 2017.
- 11) According to the enrollment tab in your NYSOH account, your QHP that was due to begin on March 1, 2017, was terminated by the system, effective March 1, 2017.
- 12) You testified that you are seeking reinstatement in your QHP as of January 1, 2017, or to have your start date for your Essential Plan to begin as of March 1, 2017 as you are worried about a tax penalty.

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

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

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).

Verification Process

For all individuals, whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i)). If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see *also* 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your enrollment in a QHP was effective March 1, 2017.

According to your NYSOH account, you were never enrolled in the BCBS QHP, effective January 1, 2017 because you had not selected a plan for enrollment.

However, you credibly testified, and a call recording dated December 10, 2016 confirms that you contacted NYSOH on December 10, 2016 and enrolled into the BCBS QHP.

The date on which a QHP can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month will go into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month will go into effect on the first day of the second following month.

Since you selected the BCBS plan on December 10, 2016, it should have taken effect on the first day of the month following December 2016; that is, on January 1, 2017.

Therefore, the January 20, 2017 plan enrollment notice stating that your enrollment in your BCBS plan would be effective March 1, 2017, was incorrect and is MODIFIED to state that your enrollment in your BCBS QHP is effective January 1, 2017, with APTC to be applied.

Your case is RETURNED to NYSOH to facilitate correcting your enrollment in your QHP plan to the appropriate plan and date.

The second issue under review is whether NYSOH properly determined that your enrollment in your QHP terminated effective March 1, 2017.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her household's projected annual income. For individuals seeking financial assistance, NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that their income information is accurate.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and allow the applicant time to submit satisfactory documentation.

In the eligibility determination issued on December 11, 2016, you were advised that you were eligible to enroll in a QHP with APTC applied to your premium for a limited time, and that you needed to confirm your household income with documentary proof before March 10, 2017.

Because there was no timely response to this notice, you were terminated from your QHP plan effective March 1, 2017.

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 testified and the record reflects that you elected to receive alerts regarding notices from NYSOH via regular mail. However, there is no indication on the record that any notices were returned as undeliverable to NYSOH. As such, NYSOH notices are deemed to have been sent and received.

Moreover, the record reflects that on January 12, 2017 and January 19, 2017, two NYSOH representatives advised that you had income documentation outstanding and that it needed to be submitted by March 10, 2017.

Therefore, it is concluded that NYSOH properly notified you that you needed to submit proof of income documentation to verify your eligibility to ensure your enrollment in your QHP would continue. You failed to provide the documentation in a timely manner, and this was the sole cause of you being disenrolled from your QHP, effective March 1, 2017.

Therefore, by this Decision, you were properly disenrolled from your QHP as of March 1, 2017.

You were also redetermined eligible for the Essential Plan, effective May 1, 2017.

As a result, you did not have health insurance through NYSOH in the months of March 2017 and April 2017 because you failed to timely provide NYSOH proof of income documentation to confirm your eligibility

The remaining issue is whether NYSOH properly determined that your enrollment in the Essential Plan was effective May 1, 2017.

You testified, and the record indicates, that NYSOH systematically updated your application on March 16, 2017, due to your failure to provide proof of income documentation. As a result, you were found eligible for the Essential Plan as of May 1, 2017 and automatically enrolled into a plan the next day.

The date on which enrollment in an Essential 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 and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

According to your NYSOH account, on March 17, 2017, NYSOH automatically enrolled you in an Essential Plan, so your enrollment properly took effect on the first day of the second month following March 2017; that is, on May 1, 2017.

Therefore, the March 18, 2017 plan enrollment notice stating that your enrollment in the Essential Plan was effective May 1, 2017, is correct and must be **AFFIRMED**.

During the hearing, you testified that you are concerned about receiving a tax penalty as a result of being without coverage.

Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. You might qualify for a health coverage exemption in 2016 if you didn't have health coverage while you were waiting for an appeal decision about coverage eligibility or savings *and* your appeal was eventually successful.

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

You will find the information you need to claim the exemption due to an appeal decision at <https://www.healthcare.gov/exemptions-tool/#/results/2016/details/eligible-based-on-appeal>. You can also call 1-800-318-2596.

Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word "pending" in column "c" and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

Decision

The January 20, 2017 plan enrollment notice is **MODIFIED** to state that your enrollment in your QHP was effective January 1, 2017, with APTC to be applied.

Your case is **RETURNED** to NYSOH to facilitate correcting your enrollment in your QHP plan to the appropriate plan as of January 1, 2017, and to notify you accordingly.

NYSOH properly disenrolled you from your QHP, effective March 1, 2017.

The March 17, 2017 eligibility determination notice is **AFFIRMED**.

The March 18, 2017 plan enrollment notice is **AFFIRMED**.

Effective Date of this Decision: August 22, 2017

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).

How this Decision Affects Your Eligibility

Your enrollment in your QHP plan should have been effective as of January 1, 2017.

Your case is being sent back to NYSOH to enroll you in your QHP for the months of January 2017 and February 2017, and to ensure that APTC is applied to the monthly premiums both months. NYSOH will notify you once this has been done.

You will be responsible for unpaid premiums for the months of January 2017 and February 2017.

Coverage in your QHP terminated as of March 1, 2017.

You did not have health insurance through NYSOH in the months of March 2017 and April 2017 because you failed to timely provide NYSOH proof of income documentation to confirm your eligibility.

NYSOH properly re-enrolled you in an Essential Plan, effective May 1, 2017.

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 QHP s, 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

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).

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 January 20, 2017 plan enrollment notice is MODIFIED to state that your enrollment in your QHP was effective January 1, 2017, with APTC to be applied.

Your case is RETURNED to NYSOH to facilitate correcting your enrollment in your QHP plan to the appropriate plan as of January 1, 2017, and to notify you accordingly.

NYSOH properly disenrolled you from your QHP, effective March 1, 2017.

The March 17, 2017 eligibility determination notice is AFFIRMED.

The March 18, 2017 plan enrollment notice is AFFIRMED.

Your enrollment in your QHP plan should have been effective as of January 1, 2017.

Your case is being sent back to NYSOH to enroll you in your QHP for the months of January 2017 and February 2017, and to ensure that APTC is applied to the monthly premiums both months. NYSOH will notify you once this has been done.

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 will be responsible for unpaid premiums for the months of January 2017 and February 2017.

Coverage in your QHP terminated as of March 1, 2017.

You did not have health insurance through NYSOH in the months of March 2017 and April 2017 because you failed to timely provide NYSOH proof of income documentation to confirm your eligibility.

NYSOH properly re-enrolled you in an Essential Plan, effective May 1, 2017.

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)

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).

0000 00 00000000000000 0000 000 00000 00000 000 0000000000 000000000 00 000000,
00000000 0000 1-855-355-5777 0000000 00 000000 00000 00 0000000 0000 00000 00000000000 00000
0000000 00000 00000000 00000 000000

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.

שׂוֹדִישׁ (Yiddish)

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).

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).