



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

Notice of Decision

Decision Date: August 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017881

[REDACTED]

Dear [REDACTED]

On July 31, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's April 11, 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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DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: August 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017881



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 do not qualify to enroll in a qualified health plan outside of the open enrollment period, effective May 1, 2017?

Procedural History

On January 28, 2017, you submitted an application for yourself for financial assistance with health insurance.

On January 29, 2017, NYSOH issued a notice stating that the income information in your application did not match what NYSOH received from state and federal data sources and that more information was needed to determine your eligibility for financial assistance with health insurance. This notice directed you to submit income documentation by February 12, 2017.

On February 6, 2017 an updated application for yourself for financial assistance with health insurance was submitted on your behalf.

On February 7, 2017, NYSOH issued a notice of eligibility determination, based on the February 6, 2017 application, stating that you were eligible to enroll in the Essential Plan, effective March 1, 2017. This notice directed you to select a health plan for enrollment.

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 April 10, 2017, NYSOH received your updated application for financial assistance. Specifically, you added your spouse to your household and indicated that your spouse was seeking health insurance through NYSOH. That day, a preliminary eligibility determination was prepared stating that you and your spouse were eligible to receive up to \$518.00 in advance payments of the premium tax credit (APTC), effective May 1, 2017. You also attempted to enroll yourself and your spouse into a qualified health plan but were unable to select a plan for enrollment.

Also on April 10, 2017, you spoke to NYSOH's Account Review Unit and appealed your and your spouse's inability to enroll into a qualified health plan outside of the open enrollment period.

On April 11, 2017, NYSOH issued an eligibility determination notice, based on the April 10, 2017 application for financial assistance, stating that you and your spouse were eligible to receive APTC of up to \$518.00 per month, 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 31, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open for seven days to allow you the opportunity to submit proof of when your employer sponsored health insurance ended.

Also on July 31, 2017 the Appeals Unit received via fax a copy of a letter from your former employer regarding the termination of your employer sponsored health insurance. This was marked as Appellant's Exhibit #1 and incorporated into the record. The record is now closed.

Findings of Fact

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

- 1) On January 28, 2017, you submitted an application for health insurance over the phone with an NYSOH representative. That application lists only you and indicates that you expect to file your 2017 tax return as married filing single.
- 2) On February 6, 2017, a certified application counselor submitted an application for health insurance on your behalf. That application lists only you and indicates that you expect to file your 2017 tax return as married filing single.

- 3) Following submission of the February 6, 2017 application, you were found eligible for the Essential Plan. There is no indication in the record or in your NYSOH account that you selected an Essential Plan for enrollment.
- 4) On April 10, 2017, you submitted an application for health insurance for yourself and your spouse over the phone with an NYSOH representative. That application indicates that both you and your spouse are seeking coverage through NYSOH and that you and your spouse intend to file your 2017 tax return as married filing jointly.
- 5) Also on April 10, 2017 you attempted to enroll yourself and your spouse into a qualified health plan.
- 6) Your application on April 10, 2017 states that you were seeking a special enrollment based on your loss of employer sponsored health insurance as of January 31, 2017.
- 7) You testified that you lost prior health insurance coverage through your employer on January 31, 2017.
- 8) You submitted a letter from your employer on July 31, 2017. This letter reflects that your health insurance through your employer would be terminated on January 31, 2017.
- 9) You testified that your spouse does not have coverage outside of NYSOH, and you are not sure when your spouse last had coverage.
- 10) You testified that there have been no other major changes to your household.
- 11) You testified that you believe the information provided to you by NYSOH representatives was insufficient, and this was what caused your delay in completing your application for financial assistance.
- 12) During the hearing you gave permission for the Hearing Officer to listen to recordings of phone calls you had with NYSOH.
- 13) The record reflects that on January 28, 2017, you placed two phone calls to NYSOH. A review of the recordings of those phone calls reveals that during the first phone call you began your application, but the call was disconnected before your application was completed. You called back and completed your application. You indicated that you would file your 2017 tax return as married filing single. The NYSOH representative advised you that income documentation was needed to determine your eligibility and gave you directions as to how to submit your income documentation.

- 14) The record reflects that on January 29, 2017 you placed two phone calls to NYSOH. A review of the recordings of those phone calls reveals that you were seeking assistance with regard to uploading your income documentation to your NYSOH account and technical issues you were having logging into your NYSOH account.
- 15) The record reflects that on March 22, 2017, you placed a phone call to NYSOH. A review of the recording of that phone call reveals that you were calling to find out about coverage. You inquired when your plan could start, and the NYSOH representative advised you that there are different start dates depending on which financial assistance program you were eligible for, and explained the different start date rules for Medicaid, the Essential Plan, and APTC. You began the process of submitting a new application during that phone call. You updated your account to include your spouse in your household as well as to indicate that your spouse was seeking coverage through NYSOH. However, you were unable to provide income information for yourself and your spouse. You indicated that you would need to call back with the income information.
- 16) The record reflects that you next contacted NYSOH on April 10, 2017 to complete your and your spouse's application for financial assistance with health insurance.
- 17) At no time during your phone calls with NYSOH did you inquire if there was a deadline by which you would need to have your application completed.

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

(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

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

NYSOH provided an open enrollment period from November 1, 2016 until January 31, 2017.

On January 28, 2017 you submitted an application for health insurance for yourself, however, income documentation was needed in order for your eligibility to be determined.

On February 6, 2017 you submitted an updated application for health insurance for yourself. As a result of this application, you were found eligible for the Essential Plan. However, no enrollment request was ever submitted.

On March 22, 2017, you began an application for health insurance for yourself and your spouse, however, this application was not completed until April 10, 2017.

On April 10, 2017 you submitted a completed application for health insurance and requested to enroll yourself and your spouse in a qualified health plan. On April 11, 2017 NYSOH issued a notice stating that you do not qualify to enroll in a qualified health plan outside of the open enrollment period.

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).

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.

You testified and submitted documentation showing that your previous insurance coverage through your employer ended on January 31, 2017. Loss of insurance coverage outside of NYSOH is considered a triggering life event.

When a triggering life event occurs, the qualified individual has 60 days from the date of that event to select a qualified health plan.

Since 60 days from January 31, 2017 is April 1, 2017; you and your spouse would have qualified to select a qualified health plan outside of the open enrollment period until April 1, 2017.

Your and your spouse's completed application and request to enroll into a qualified health plan did not occur until April 10, 2017; which is outside of the 60-day window.

A special enrollment period can also be granted if a qualified individual'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

You testified that that you believe the information provided to you by NYSOH representatives was insufficient, and this was what caused your delay in completing your application for financial assistance.

However, when you began the update of your and your spouse's application for health insurance on March 22, 2017, you did not provide complete income information. Therefore, the NYSOH representative could not have known which level of financial eligibility you and your spouse would be eligible for. As such, the NYSOH representative could not advise you of a deadline for when your application would need to be completed by. Additionally, you did not inquire if there was a deadline by which your application would need to be completed.

Since the record does not indicate that NYSOH, by action or inaction, made an error or misrepresented information, a special enrollment period cannot be granted.

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 or your spouse for a special enrollment period.

Therefore, NYSOH's April 11, 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 April 11, 2017 eligibility determination is AFFIRMED.

Effective Date of this Decision: August 10, 2017

How this Decision Affects Your Eligibility

You and your spouse 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
- By mail at:

Health Insurance Marketplace

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).

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 April 11, 2017 eligibility determination is AFFIRMED.

You and your spouse 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:



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. y&b&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.

שׂוֹדִיִּשׁ (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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