



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: AP000000018124

[REDACTED]

Dear [REDACTED],

On July 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 8, 2017 disenrollment notice and the April 19, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: August 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018124



Issues

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

Did NY State of Health properly terminate your and your spouse's health plan coverage, effective March 1, 2017, because of non-payment of premiums?

Did NY State of Health properly determine that you and your spouse did not qualify to enroll in a qualified health plan outside of the open enrollment period, effective June 1, 2017?

Procedural History

On March 4, 2017, NY State of Health (NYSOH) issued an eligibility determination notice, based on your March 3, 2017 application, stating that you and your spouse were eligible to enroll in qualified health plan (QHP) and to share in up to \$435.00 in advance payments of the premium tax credit (APTC), effective April 1, 2017.

Also on March 4, 2017, NYSOH issued a plan enrollment notice, based on your March 3, 2017 plan selection, confirming that you and your spouse were enrolled in an QHP with a monthly premium of \$1,162.28 after your APTC of \$435.00 was applied, effective March 1, 2017. That notice also stated you must pay the monthly premiums to start and keep your and your spouse's coverage.

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On April 8, 2017, NYSOH issued a disenrollment notice stating that your and your spouse's coverage in your QHP was terminated effective March 1, 2017, because a premium payment had not been received by the health plan. That notice directed you and your spouse to contact your plan directly if you believed you made your premium payment(s) within the required timeframe.

On April 18, 2017, NYSOH received your and your spouse's updated application for financial assistance. That day, a preliminary eligibility determination was prepared finding you and your spouse eligible to share in up to \$435.00 in APTC, effective June 1, 2017. You also attempted to enroll yourself and your spouse into a QHP but were unable to select a plan for enrollment.

Also on April 18, 2017, you spoke to NYSOH's Account Review Unit and appealed your inability to enroll yourself and your spouse into a QHP outside of the open enrollment period.

On April 19, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to share in up to \$435.00 per month in APTC, effective June 1, 2017. It further stated that you and your spouse did 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 closed at the end of the hearing.

Findings of Fact

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

- 1) You submitted an updated application to NYSOH for financial assistance for you and your spouse on March 3, 2017.
- 2) On March 4, 2017, NYSOH issued a plan enrollment notice confirming that you and your spouse were enrolled in a QHP, effective March 1, 2017. That notice further stated you must pay your monthly premiums to start and keep your coverage.
- 3) You testified that you paid the March 2017 premium by credit card, but you did not recognize the charge on your credit card and cancelled the transaction resulting in your and your spouse's premium for March 2017 not being paid to the health plan.
- 4) On April 8, 2017, NYSOH issued a disenrollment notice stating that your and your spouse's enrollment in your QHP was terminated effective March 1, 2017 because of non-payment of premiums.

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- 5) You testified that you found out you and your spouse were terminated from your health coverage for non-payment of premiums after calling the health plan to inquire as to why you never received your and your spouse's health insurance cards.
- 6) You testified that since filing your application on April 18, 2017, there have been no other major changes to your household.
- 7) On April 18, 2017, you attempted to enroll yourself and your spouse in a QHP but were unable to do so.
- 8) You testified that you wanted your and your spouse's enrollment in health coverage to begin on March 1, 2017 because you have medical bills relating to [REDACTED].

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Appealable Issues

An applicant has the right to appeal to the Appeals Unit of NYSOH: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, and (4) a failure by NYSOH to provide timely notice of an eligibility determination (45 CFR § 155.505).

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

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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:

(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.

(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 first issue under review is whether NYSOH properly terminated your and your spouse's health coverage effective March 1, 2017 because of non-payment of premiums.

On March 4, 2017, NYSOH issued an eligibility determination notice, based on your March 3, 2017 application, stating that you and your spouse were eligible to enroll in QHP and to share in up to \$435.00 in APTC, effective April 1, 2017.

Also on March 4, 2017, NYSOH issued a plan enrollment notice, based on your March 3, 2017 plan selection, confirming that you and your spouse were enrolled in an QHP with a monthly premium of \$1,162.28 after your and your spouse's APTC of \$435.00 was applied, effective March 1, 2017. That notice also stated you must pay the monthly premiums to start and keep your and your spouse's coverage.

You testified that you paid the March 2017 premium by credit card, but you did not recognize the charge on your credit card and cancelled the transaction resulting in your and your spouse's premium for March 2017 not being paid to the health plan.

The New York State of Health Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an

eligibility determination for an exemption, and (4) a failure by the Exchange to provide timely notice of an eligibility determination.

Since the Appeals Unit is not given the authority to review disenrollment issues due to non-payment of premiums or matters that are contractual in nature, such as your contention that you did not recognize the charge on your credit card and cancelled the payment, we cannot reach the merits as to whether you and your spouse were properly terminated from your health plan for non-payment of premiums.

Therefore, your appeal of your and your spouse's QHP disenrollment, effective March 1, 2017, is DISMISSED as a non-appealable issue.

The remaining issue is whether NYSOH properly determined that you and your spouse did not qualify to enroll in a QHP outside of the open enrollment period, effective June 1, 2017.

NYSOH provided an open enrollment period from November 1, 2016 until January 31, 2017. On April 18, 2017, you submitted an application for health insurance and requested to enroll in a QHP. On April 19, 2017, NYSOH issued a notice stating that you do not qualify to enroll in a QHP 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.

Though you did lose health coverage because of the April 8, 2017 disenrollment, the loss of health insurance coverage in this case cannot be considered a triggering event for a special enrollment period, because it was a result of non-payment of your premiums which NYSOH considers a voluntary action that caused your coverage to terminate.

You testified that there have been no major changes to your household in 2017. The credible evidence of record indicates that, since the open enrollment period closed on January 31, 2017, you did not experience a triggering event that would qualify you for a special enrollment period as of the date of the hearing.

Therefore, the April 19, 2017 eligibility determination notice, to the extent it denied you a special enrollment period, was correct and is AFFIRMED.

Decision

The April 19, 2017 eligibility determination notice is AFFIRMED.

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).

Effective Date of this Decision: August 22, 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
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.

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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 19, 2017 eligibility determination notice 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.

שׂוֹדֵשׁ (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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