



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

Notice of Decision

Decision Date: September 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018307

[REDACTED]

Dear [REDACTED],

On August 11, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 19, 2016 enrollment confirmation 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
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Decision

Decision Date: September 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018307

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Is your appeal of the November 19, 2017 enrollment confirmation notice timely?

Procedural History

On October 22, 2016, NYSOH issued a notice stating it was time to renew your health coverage for 2017. The notice indicated that, based on information from state and federal data sources, you and your spouse were eligible to receive up to \$317.30 per month in advance payments of the premium tax credit (APTC), effective January 1, 2017. The notice stated you and your spouse were being automatically enrolled in the same health plan for 2017. The notice further stated that you could confirm or change the amount applied to your monthly cost of coverage by logging into your online account and updating your tax credit after November 15, 2016. The notice also stated that you would receive a letter from NYSOH to confirm your plan and the amount you would pay for the upcoming year.

On November 19, 2016, NYSOH issued an enrollment notice confirming you and your spouse were enrolled in a qualified health plan, effective January 1, 2017, with \$183.00 of APTC applied to your monthly premium. The notice stated that the monthly premium for your couple's plan would be \$724.13, effective January 1, 2017.

On March 4, 2017, NYSOH issued an enrollment notice, based on a March 3, 2017 enrollment update, stating you and your spouse were enrolled in a couple's qualified health plan with \$317.00 of APTC applied to your monthly premium, effective April 1, 2017. The notice indicated that the monthly premium for your couple's plan would be \$589.83, effective April 1, 2017.

On April 24, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as less than the maximum amount of APTC to which you were eligible for was automatically applied to your monthly premium effective January 1, 2017.

On August 11, 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 support the following findings of fact:

- 1) You and your spouse were determined eligible to receive up to \$183.00 in APTC, effective August 1, 2016, and you enrolled in a couple's plan with the maximum amount of APTC applied to your monthly premium, effective August 1, 2016. The monthly premium for this plan after APTC applied was \$661.84.
- 2) On October 22, 2016, NYSOH issued a renewal notice indicating that you and your spouse were being automatically renewed in your qualified health plan for 2017. The notice indicated that the eligibility of you and your spouse was redetermined based on information received from data sources and, effective January 1, 2017, you and your spouse were eligible to receive up to \$317.00 in monthly APTC. The notice further stated, on page four, that you could confirm or change the amount applied to your monthly cost of coverage by logging into your online account and updating your tax credit after November 15, 2016.
- 3) You testified that you received the October 22, 2016 renewal notice, but that you did not read the whole notice because the first page said that no further action was needed. You testified you did not know you had to do anything to apply the full amount of APTC you were eligible for.
- 4) On November 19, 2016, NYSOH issued a notice of enrollment confirming you and your spouse were enrolled in a qualified health plan, effective January 1, 2017, with \$183.00 of APTC applied to your monthly premium. According to that notice the monthly premium for that plan after APTC was applied was \$724.13, effective January 1, 2017.

- 5) You testified you received the November 19, 2016 enrollment confirmation notice.
- 6) You testified you received the January invoice from your health plan for a higher premium amount and you contacted your health plan and NYSOH in January and February 2017 to find out what was going on.
- 7) You testified your broker contacted NYSOH in March 2017 and requested to speak with a supervisor who indicated for the first time that all your tax credits were not being applied.
- 8) According to your account, the enrollment of you and your spouse was updated on March 3, 2017 and the amount of the tax credits being applied to your monthly premium was increased to \$317.00, the maximum amount to which you were qualified. This change became effective on April 1, 2017.
- 9) There is no record of any activity in your account, aside from the systematic January 19, 2017 issuance of a 1095A tax form, between the November 19, 2016 enrollment confirmation notice and the March 3, 2017 enrollment update.
- 10) According to your account, the first record of any complaint and/ or incident regarding the application of tax credits to your monthly premium was on March 6, 2017.
- 11) A formal appeal was filed on your behalf on April 24, 2017.
- 12) You testified you are appealing the amount of tax credits being applied to your monthly premium for the months of January, February, and March 2017.

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

Applicable Law and Regulations

Valid Appeal Requests

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) a failure by NYSOH to provide timely

notice of an eligibility determination; and (4) the denial of a request for a special enrollment period (45 CFR § 155.505, 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(1)).

Legal Analysis

The issue under review is whether your appeal of the November 19, 2016 enrollment confirmation notice was timely.

According to your account, the health coverage of you and your spouse was automatically renewed for 2017. The renewal notice issued by NYSOH on October 22, 2016 indicated you and your spouse were being automatically reenrolled in the same plan for 2017. The notice also indicated that the eligibility of you and your spouse was redetermined based on information received from data sources and, effective January 1, 2017, you and your spouse were eligible to receive up to \$317.00 in monthly APTC. The notice further stated, on page four, that you could confirm or change the amount applied to your monthly cost of coverage by logging into your online account and updating your tax credit after November 15, 2016. You testified that you received the October 22, 2016 renewal notice, but that you did not read the whole notice because the first page said that no further action was needed. You testified you did not know you had to do anything to apply the full amount of APTC you were eligible for.

On November 19, 2016, NYSOH issued a notice of enrollment confirming you and your spouse were enrolled in a qualified health plan, effective January 1, 2017, with \$183.00 of APTC applied to your monthly premium. According to that notice, the monthly premium for that plan after APTC was applied was \$724.13, effective January 1, 2017. You testified you received the November 19, 2016 enrollment confirmation notice. You testified you are appealing the amount of APTC applied to your monthly premium, effective January 1, 2017, as stated in the November 19, 2016 enrollment confirmation notice, insofar as less than the maximum amount you were eligible for was applied. Accordingly, given your testimony, it is concluded that you are appealing only the amount of APTC that was applied to your monthly premium for the months of January, February, and March 2017, rather than the amount of APTC to which you were determined eligible.

Pursuant to the above cited regulations, an applicant has the right to appeal to NYSOH's Appeals Unit: (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) a failure by

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NYSOH to provide timely notice of an eligibility determination; and (4) the denial of a request for a special enrollment period.

Additionally, all appeals must be filed within 60 days of the date the notice was issued.

Regardless of the issue of whether your appeal falls within the scope of review of the NYSOH Appeals Unit, it is herein concluded that your appeal is untimely.

The above cited regulations require that applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been timely on the issue of the amount of APTC automatically applied to your monthly premium beginning in January 1, 2017, as confirmed in the November 19, 2016 enrollment confirmation notice, an appeal should have been filed no later than January 18, 2017. According to your account, a formal appeal was not filed in this matter until April 24, 2017, long after the 60-day period in which to appeal had passed.

It is noted that you testified you contacted NYSOH in January 2017 regarding the application of your tax credit; however, there is no record in your account of any activity prior to March 3, 2017, when your enrollment was updated to apply the full amount of tax credits to which you were eligible for. Furthermore, there is no record of any complain and/or incident regarding tax credits filed with NYSOH until March 6, 2017. Thus, there is insufficient evidence in the record which would justify tolling the regulatory time-period.

Therefore, given the facts of the case, there has been no timely appeal of the November 19, 2016 enrollment confirmation notice, and your appeal on the issue of the amount of tax credits applied to your monthly premium for the months of January, February, and March 2017 is **DISMISSED**.

Decision

Your appeal of the November 19, 2016 enrollment confirmation notice is untimely and is **DISMISSED**.

Effective Date of this Decision: September 18, 2017

How this Decision Affects Your Eligibility

You did not appeal within the required time-period, so NYSOH is without jurisdiction to review the merits of your appeal.

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.

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

Your appeal of the November 19, 2016 enrollment confirmation notice is untimely and is DISMISSED.

You did not appeal within the required time-period, so NYSOH is without jurisdiction to review the merits of your appeal.

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)

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।

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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 मददत चाहन्छिन् भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोलने 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&etumi ama wo obi a okyerε 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.