



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

Notice of Decision

Decision Date: September 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018854

[REDACTED]

Dear [REDACTED],

On August 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 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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Decision

Decision Date: September 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018854



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 did not qualify to enroll in a qualified health plan (QHP) outside of the open enrollment period as of May 11, 2017?

Procedural History

On March 7, 2017, you submitted an initial application for financial assistance through NYSOH.

On March 8, 2017, NYSOH issued a notice stating that your application for health insurance had been reviewed and the information in your application did not match what NYSOH received from state and federal data sources. The notice directed you to submit additional proof of your household's income by March 22, 2017, and additional proof of your spouse's citizenship status by June 5, 2017, to verify the information in your application.

On March 29, 2017, your NYSOH account was updated.

On March 30, 2017, NYSOH issued a notice stating that your application for health insurance had been reviewed and the information in your application did not match what NYSOH received from state and federal data sources. The notice directed you to submit additional proof of your household's income by April 13, 2017 and April 21, 2017, to verify the information in your application.

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On April 28, 2017, the documents that were faxed to NYSOH were uploaded to your NYSOH account (see Documents [REDACTED]).

On May 2, 2017, NYSOH issued a notice stating that the documentation reviewed did not confirm the information in your application. The notice directed you to submit additional proof of your household's income by May 21, 2017, to verify the information in your application.

On May 10, 2017, your NYSOH account was updated. Based on that update, NYSOH rendered a preliminary eligibility determination finding you and your spouse eligible for a tax credit up to \$515.00 per month, effective June 1, 2017.

Also on May 10, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as you and your spouse did not qualify for a special enrollment period.

On May 11, 2017, NYSOH issued an eligibility determination notice stating, in relevant part, that you and your spouse did not qualify to select a QHP outside of the open enrollment period for 2017.

On August 17, 2017, you had a telephone hearing with a Hearing Officer from the 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 testified that you want you and your spouse to be found eligible to enroll in health insurance through NYSOH in 2017.
- 2) According to your NYSOH account, you and your spouse are seeking a special enrollment period because you lost or will lose health coverage.
- 3) You testified that you and your spouse lost employer-sponsored health insurance effective January 31, 2017.
- 4) According to your NYSOH account, you submitted applications for financial assistance on March 7, 2017 and March 29, 2017.
- 5) According to your NYSOH account, on March 7, 2017 and March 29, 2017 NYSOH rendered preliminary eligibility determinations that you and your spouse were "Medicaid Eligible" with "Income Verification Outstanding."

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- 6) On May 11, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were not eligible for Medicaid because the household income provided was over the allowable income limit (see Document [REDACTED]).
- 7) You testified that you did not experience any misrepresentation from any representative of NYSOH.

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

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.

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(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)).

Length of Special Enrollment Period

As a general rule, a qualified individual or enrollee has 60 days from the date of a triggering event to select a QHP (45 CFR §155.420(c)(1)). A qualified individual or their dependent, who loses health insurance that is considered to be minimum essential coverage, has 60 days before or after the loss of coverage to select a QHP (45 CFR §155.420(c)(2)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse did not qualify to enroll in a QHP outside of the open enrollment period as of May 11, 2017.

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

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.

A qualified individual or their dependent, who loses health insurance that is considered to be minimum essential coverage, has 60 days before or after the loss of coverage to select a QHP.

You testified that you and your spouse's employer-sponsored health insurance coverage ended on January 31, 2017. The special enrollment period that began on January 31, 2017, expired 60 days later as of April 1, 2017. Therefore, you and your spouse had until April 1, 2017, to select a QHP. Since a QHP was not selected as of April 1, 2017, you and your spouse were not eligible to enroll in a QHP on the basis of losing your employer-sponsored insurance.

However, a special enrollment period may be available to a qualified individual or dependent who applies for coverage during the annual open enrollment period or has a qualifying life event and is determined potentially eligible for Medicaid during that period and is later determined ineligible for Medicaid either after the open enrollment period has ended or more than 60 days after the qualifying event.

On March 7, 2017 and March 29, 2017, you submitted applications for financial assistance through NYSOH. Both these dates were within 60 days of you and your spouse losing employer-sponsored insurance. Based on those applications, NYSOH rendered preliminary eligibility determinations finding you and your spouse "Medicaid Eligible" with "Income Verification Outstanding." On March 8,

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2017 and March 30, 2017, NYSOH issued notices directing you to submit additional proof of your household's income to confirm your and your spouse's eligibility.

On May 10, 2017, your account was updated. Based on that update, on May 11, 2017, NYSOH issued an eligibility determination notice stating, in relevant part, that you and your spouse were not eligible for Medicaid because the household income provided was over the allowable income limit for that program (see Document [REDACTED]).

The credible evidence of record reflects that you applied for health insurance coverage for you and your spouse during the 60-day period following a qualifying life event; that is, loss of your employer-sponsored insurance. During that period, you and your spouse were found potentially eligible for Medicaid. Thereafter, you and your spouse were determined ineligible for Medicaid more than 60 days after the qualifying life event. As such, you and your spouse should have been granted a special enrollment period on that basis.

Therefore, NYSOH incorrectly determined you and your spouse to be ineligible for a special enrollment period. The May 11, 2017 eligibility determination notice is RESCINDED insofar as it stated you and your spouse did not qualify to select a health plan outside of the open enrollment period for 2017.

Your case is RETURNED to NYSOH to assist you and your spouse in enrolling into a qualified health plan. You must enroll into coverage within 60 days from the date of this decision.

Decision

The May 11, 2017 eligibility determination notice stating insofar as that you and your spouse did not qualify to select a health plan outside of the open enrollment period for 2017 is RESCINDED.

Your case is RETURNED to NYSOH to assist you and your spouse in enrolling into a qualified health plan. You must enroll into coverage within 60 days from the date of this decision.

Effective Date of this Decision: September 5, 2017

How this Decision Affects Your Eligibility

NYSOH improperly denied you and your spouse a special 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).

Your case is being sent back to NYSOH to allow you to enroll into a qualified health plan. You must enroll into coverage within 60 days from the date of this decision.

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

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- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The May 11, 2017 eligibility determination notice stating insofar as that you and your spouse did not qualify to select a health plan outside of the open enrollment period for 2017 is RESCINDED.

Your case is RETURNED to NYSOH to assist you and your spouse in enrolling into a qualified health plan. You must enroll into coverage within 60 days from the date of this decision.

NYSOH improperly denied you and your spouse a special enrollment period.

Your case is being sent back to NYSOH to allow you to enroll into a qualified health plan. You must enroll into coverage within 60 days from the date of this decision.

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 مجانًا.

বাংলা (Bengali)

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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।

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 okyer& 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 איר געבן א דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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