



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: AP000000019226

[REDACTED]

Dear [REDACTED],

On August 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 21, 2017 disenrollment and April 27, 2017 eligibility determination 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).

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DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: September 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019226

Alber Franco
[REDACTED]

Issues

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

Did NY State of Health (NYSOH) properly terminate your qualified health plan (QHP) for non-payment of premium, effective April 1, 2017?

Did NYSOH properly determine that you were not eligible to enroll in a plan outside of the open enrollment period as of April 26, 2017?

Procedural History

On February 18, 2017, NYSOH issued a plan enrollment notice, based on your February 17, 2017 initial plan selection, confirming that you were enrolled in a QHP with a premium of \$180.46 per month, effective April 1, 2017. That notice also stated that you must pay the monthly premium to start and keep your coverage.

On April 21, 2017, NYSOH issued a disenrollment notice stating your insurance with your QHP was terminated, effective April 1 2017, because a premium payment had not been received by the health plan. That notice directed you to contact your plan directly to discuss re-enrolling into your health plan.

On April 27, 2017, NYSOH issued an eligibility determination notice, based on your April 26 updated application, stating that you were eligible to receive an advance payment of the premium tax credit in an amount of up to \$276.00 per month and eligible to receive cost-sharing reductions if you enroll in a silver-level

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QHP. That notice further stated that you do not qualify to select a health plan outside the open enrollment period for 2017.

On May 24, 2017, you spoke to NYSOH's Account Review Unit and appealed the April 21, 2017 notice insofar as you were dis-enrolled from your health plan as of April 1, 2017, for non-payment of premium.

On August 31, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your request to amend your appeal to include an appeal of the April 27, 2017 eligibility determination notice, insofar as you were denied a special enrollment period, 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) According to your NYSOH account, you initially applied for and enrolled in coverage through NYSOH on February 17, 2017, effective April 1, 2017.
- 2) Your coverage in your QHP was terminated, effective April 1, 2017, due to non-payment of premium. As such, your coverage never started.
- 3) On April 26, 2017, you attempted to re-enroll in a health insurance plan through NYSOH, but were denied a special enrollment period.
- 4) You testified that you were waiting for an invoice from your health plan, which you never received. You further testified that when you attempted to pay your premium, your health plan refused your payment.
- 5) According to a NYSOH call recording, dated May 25, 2017, a health plan representative stated they sent a premium notice on February 1, 2017.
- 6) This date is prior to your February 17, 2017 initial application and enrollment in health coverage through NYSOH.
- 7) You testified that you sought reinstatement of your QHP through your health plan provider, but they refused to reinstate you and directed you to contact NYSOH.
- 8) You testified that you need health insurance.
- 9) According to your NYSOH account and your testimony, there have been no changes in your household since the open enrollment period ended on January 31, 2017.

10) You confirmed that your household income and size have not changed.

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 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 NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (4) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Enrollment in a Qualified Health Plan

NYSOH must provide annual open enrollment periods during which time qualified individuals may enroll in a QHP and enrollees may change QHPs (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 QHP, 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 involuntarily loses certain health insurance coverage:
 - (a) Health insurance considered to be minimum essential coverage;
 - (b) Enrolled in any non-calendar year health insurance policy, even if they have the option to renew the expiring non-calendar year individual health insurance policy; or

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(c) Pregnancy-related coverage; or

(d) Medically needy coverage.

(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 QHP (45 CFR § 155.420(c)(1)).

However, a loss of health insurance coverage such as that referenced above does not include,

“voluntary termination of coverage or other loss due to—

(1) Failure to pay premiums on a timely basis, including COBRA premiums prior to expiration of COBRA coverage, or

(2) Situations allowing for a rescission as specified in 45 CFR [§] 147.128”

(45 CFR § 155.420(e)).

Legal Analysis

The first issue under review is whether NYSOH properly terminated your QHP for non-payment of premium, effective April 1, 2017.

On February 18, 2017, you were enrolled in a QHP for the 2017 coverage year with a monthly premium of \$180.46, effective April 1, 2017.

You testified that you did not pay your April 2017 premium to your health plan because they never sent you an invoice.

On April 21, 2017, NYSOH issued a notice stating that you were dis-enrolled from your QHP for non-payment of the premium, effective April 1, 2017.

NYSOH 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) a failure to provide timely notice of an eligibility determination, and (4) a denial of a special enrollment period.

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Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether you were properly terminated from your QHP for non-payment of premium. Therefore, your appeal of the April 21, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

The second issue under review is whether NYSOH properly denied you a special enrollment period, effective April 26, 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.

On February 18, 2017, NYSOH issued a plan enrollment notice confirming you were enrolled in a health plan effective April 1, 2017. That notice further stated you must pay the monthly premium to start and keep your coverage.

On April 21, 2017, NYSOH issued a disenrollment notice stating that your health insurance was terminated effective April 1, 2017, because a premium payment had not been received by your health plan. That notice directed you to contact your plan directly to discuss re-enrolling in your health plan. You testified that you contacted the health plan and requested reinstatement of your health insurance. You further testified that the health plan refused to reinstate you and directed you to contact NYSOH.

On April 26, 2017, you contacted NYSOH and, as confirmed in an April 27, 2017 eligibility determination notice, you were denied a special enrollment period within which to select a QHP for coverage to resume in 2017.

Ordinarily, the loss of health insurance coverage is considered a triggering event. Here, you testified you did not pay your April 2017 premium because you never received an invoice from the health plan.

NYSOH considers the failure to pay premiums a voluntary action. In your case, the credible evidence of record demonstrates that you failed to pay your April 2017 premium, which resulted in your coverage never beginning. Therefore, you would not be entitled to a special enrollment period in which to enroll in new coverage on this basis.

Your NYSOH account indicates that, since the open enrollment period closed on January 31, 2017, no other triggering events have occurred that would qualify you for a special enrollment period.

Therefore, NYSOH properly denied your request for a special enrollment period and the April 27, 2017 eligibility determination notice is AFFIRMED.

Lastly, the Appeals Unit does not have jurisdiction over your concern regarding your health plan's failure to provide an invoice. However, you may contact your health plan directly regarding this matter or for other health care coverage questions. To file a complaint against the insurance company, you can contact the Consumer Assistance Unit at the NYS Department of Financial Services at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30 PM); or locally to (212) 480-6400; or you can file a complaint at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>.

Decision

Your appeal of the April 21, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

The April 27, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: September 5, 2017

How this Decision Affects Your Eligibility

You did not qualify for a special enrollment period as of April 26, 2017, and do not qualify 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)).

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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 April 21, 2017 disenrollment notice is **DISMISSED** as a non-appealable issue.

The April 27, 2017 eligibility determination notice is **AFFIRMED**.

You did not qualify for a special enrollment period as of April 26, 2017, and do not qualify at this time.

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).

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 مجانًا.

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বাংলা (Bengali)

এই নথি গুরুত্বপূর্ণ। আপনি যদি এটি বুঝতে সাহায্যের প্রয়োজন হয়, তবে দয়া করে 1-855-355-5777-এ কল করুন। আমরা আপনার ভাষায় একটি ব্যক্তিগত অনুবাদকর্মীকে আপনার জন্য বিনামূলিতে প্রস্তুত রাখতে 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 bɛtumi ama wo obi a okyerɛ kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

آپ کو آپ ہم کریں۔ کال پر 1-855-355-5777 کرم براہ تو ہے ضرورت کی مدد لیے کے سمجھنے اسے کو آپ اگر ہے۔ دستاویز ہم ایک یہ ہیں۔ سکتے کر فراہم مترجم مفت ایک میں زبان مادری کی

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.

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אידיש (Yiddish)

. מיר קענען אייך 1-855-355-5777 דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט וואס איר רעדט. געבן א דאלמעטשער פריי פון אפצאל אין די שפראך