



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

Notice of Decision

Decision Date: September 05, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019235

[REDACTED]

Dear [REDACTED],

On August 29, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 2, 2017 and May 3, 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 NY State of Health 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: September 05, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019235



Issue

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

Did New York State of Health (NYSOH) properly determine that you did not qualify to enroll in a qualified health plan outside of the open enrollment period, effective May 1, 2017?

Procedural History

According to February 8, 2017 plan enrollment notice, you were enrolled in a silver-level qualified health plan (QHP), effective March 1, 2017, with a premium of \$137.31 after the monthly advance payment of the premium tax credit (APTC) of \$376.00 was applied. You were also eligible for cost-sharing reductions.

On May 2, 2017, based on your May 1, 2017 application in which you attested to a household income of \$26,144.00, NYSOH issued an eligibility determination notice stating that you were eligible for up to \$374.00 per month in APTC and eligible for cost-sharing reductions, effective June 1, 2017. The notice also stated that you were not eligible to enroll in a qualified health plan outside of the open enrollment period and you no longer qualified to enroll in the Essential Plan as of May 31, 2017.

On May 3, 2017, NYSOH issued an eligibility determination notice with the same findings as the May 1, 2017 notice, based on an attested income of \$26,144.00.

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On May 24, 2017, you spoke to NYSOH's Account Review Unit and appealed your inability to re-enroll into your qualified health plan outside of the open enrollment period.

On May 25, 2017, NYSOH issued an appeal acknowledgement notice based on your request to review its denial of a special enrollment period

On August 29, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed that day.

Findings of Fact

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

- 1) On your February 7, 2017 application, you attested to a household income of \$26,000.00, and were determined eligible to receive up to \$376.00 in APTC per month. You were enrolled in a qualified health plan through NYSOH with APTC applied as of March 1, 2017.
- 2) According to your NYSOH account, on May 1, 2017, you attempted to update the income information in your account three times.
- 3) You testified that you attempted to change your income information because your hours were reduced at one job and you took on another job to offset the loss in hours. You further testified that, when you initially changed your income information to \$21,923.00, you did not include your tips.
- 4) On the second application you filed on May 1, 2017, you attested to an expected yearly income of \$21,644.00.
- 5) According to your NYSOH account, the decreases in your household income resulted in you being found eligible for the Essential Plan.
- 6) On the third application you filed on May 1, 2017 and the application you filed on May 2, 2017, you attested to an expected yearly income of \$26,144.00. You testified this amount is correct.
- 7) You testified that when you added your tips back into the income you reported, you were no longer eligible for the Essential Plan, and were again eligible for APTC but were unable to re-enroll in your qualified health plan.

- 8) According to the Events Tab in your NYSOH account, your first two May 1, 2017 applications opened a clock for proof of income for the Essential Plan. The third May 1, 2017 application and the May 2, 2017 application did not.
- 9) According to the Enrollment Tab in your NYSOH account, you were systematically terminated from your qualified health plan, effective May 31, 2017. You were granted Aid to Continue and re-enrolled in your qualified health plan as of June 1, 2017, with APTC and cost-sharing reductions pending the outcome of your appeal.
- 10) According to your NYSOH account, no eligibility determination notice relative to you being eligible to enroll in the Essential Plan nor a disenrollment notice relative to your qualified health plan ending have been issued by NYSOH.
- 11) You testified that since filing your applications on May 1 and 2, 2017, there have been no other major changes to your household.

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

NY State of Health (NYSOH) must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR § 155.410(a)(1)).

For the benefit year beginning on January 1, 2016, the annual open enrollment period began on November 1, 2015, and extended through January 31, 2016 (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 a triggering life event occurs, such as:

- (6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or has a change in eligibility for cost-sharing reductions; or

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(45 CFR § 155.420(d)(6)).

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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you did not qualify to enroll in a qualified health plan outside of the open enrollment period, as of May 1, 2017 and May 2, 2017.

NYSOH provided an open enrollment period from November 1, 2016 until January 31, 2017. The record reflects that you were enrolled in a silver-level qualified health plan as of March 1, 2017, with APTC applied as of that month. You were also eligible for cost-sharing reductions.

On May 1, 2017, you changed your household income three times and re-applied for health insurance. You also requested to re-enroll in your qualified health plan. On May 2, 2017 and again on May 3, 2017, NYSOH issued eligibility determination notices stating, in relevant part, that you did not qualify to enroll in a qualified health plan outside of the open enrollment period.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period 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 that you attempted to change your income information because your hours were reduced at one job and you took on another job to offset the loss in hours. You further testified that, when you initially changed your income information the first two times on May 1, 2017, to \$21,923.00 and then to \$21,644.00, you did not include your tips in your income.

The decreases in your attested household income reported in your first two May 1, 2017 updated applications resulted in your eligibility being redetermined and you being found eligible for the Essential Plan. This further resulted in you being terminated from your qualified health plan. However, NYSOH did not issue an eligibility determination notice stating that you were eligible to enroll in the Essential Plan nor did it issue a disenrollment notice stating that you were being disenrolled from your qualified health plan because you were no longer eligible for APTC.

You credibly testified that the income of \$26,144.00 you attested to in the third application you submitted on May 1, 2017, and again in the application you submitted on May 2, 2017, was correct. Based on the information you provided in those two applications, and the information contained in your NYSOH account, your eligibility changed from being eligible for the Essential Plan to once again being eligible for APTC and cost-sharing reductions. As such, the May 2, 2017 and May 3, 2017 eligibility determination notices stated that your eligibility for the Essential Plan would end May 31, 2017, and you were redetermined eligible for APTC of up to \$374.00 per month and eligible for cost-sharing reductions, effective June 1, 2017, but not eligible to enroll in a qualified health plan outside the open enrollment period.

Generally, when an enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or has a change in eligibility for cost-sharing reductions, that is considered a triggering life event.

Notwithstanding the fact that NYSOH failed to issue an eligibility determination notice stating that you were eligible to enroll in the Essential Plan and a disenrollment notice stating you were being disenrolled from your qualified health plan because you were no longer eligible for APTC, based on the information available in your NYSOH account, you were redetermined eligible for APTC and cost-sharing reductions, as stated in the May 2, 2017 and May 3, 2017 eligibility determination notices. Being found newly eligible for APTC qualifies as a triggering life event for a special enrollment period. Therefore, NYSOH improperly denied you a special enrollment period for you to be able to re-enroll in your qualified health plan with APTC and cost-sharing reductions as of May 1, 2017.

Therefore, NYSOH's May 2, 2017 and May 3, 2017 eligibility determination notices that state you do not qualify to select a health plan outside of the open enrollment period for 2017 are MODIFIED to state that you are eligible for a special enrollment period to re-enroll in your silver-level qualified health plan with APTC of up to \$374.00 per month and cost-sharing reductions as of the date of your May 1, 2017 and May 2, 2017 applications.

You testified that you wish to resume coverage in the same qualified health plan that began March 1, 2017. At present, you are enrolled in your silver-level health coverage as of June 1, 2017, with APTC and cost-sharing reductions under Aid to Continue during the appeal process.

Your case is RETURNED to NYSOH to adjust your eligibility for APTC and cost-sharing reductions and your enrollment in your silver-level qualified health plan to full eligibility and enrollment for the remainder of your health insurance year. People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on NYSOH application) with their actual income (stated on their federal income tax return).

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Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

Decision

The May 2, 2017 and May 3, 2017 eligibility determination notices that state you do not qualify to select a health plan outside of the open enrollment period for 2017 are MODIFIED to state that you are eligible for a special enrollment period to re-enroll in your silver-level qualified health plan with APTC of up to \$374.00 per month and cost-sharing reductions as of the date of your May 1, 2017 and May 2, 2017 applications.

At present, you are enrolled in your silver-level health coverage as of June 1, 2017 under Aid to Continue during the appeal process.

Your case is RETURNED to NYSOH to adjust your eligibility for APTC and cost-sharing reductions and your enrollment in your silver-level qualified health plan to full eligibility and enrollment for the remainder of your health insurance year, and to notify you accordingly.

Effective Date of this Decision: September 05, 2017

How this Decision Affects Your Eligibility

NYSOH improperly denied you a special enrollment period.

At present, you are enrolled in your silver-level health coverage as of June 1, 2017 under Aid to Continue during the appeal process.

NYSOH is directed to change your eligibility for APTC up to \$374.00 and cost-sharing reductions and your enrollment in your silver-level qualified health plan to full eligibility and enrollment for the remainder of your health insurance year. NYSOH will notify you once this has been done.

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.

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).

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

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Summary

The May 2, 2017 and May 3, 2017 eligibility determination notices that state you do not qualify to select a health plan outside of the open enrollment period for 2017 are MODIFIED to state that you are eligible for a special enrollment period to re-enroll in your silver-level qualified health plan as of the date of your May 1, 2017 and May 2, 2017 applications.

At present, you are enrolled in your silver-level health coverage as of June 1, 2017 under Aid to Continue during the appeal process.

Your case is RETURNED to NYSOH to adjust your eligibility for APTC and cost-sharing reductions and your enrollment in your silver-level qualified health plan to full eligibility and enrollment for the remainder of your health insurance year, and to notify you accordingly.

NYSOH improperly denied you a special enrollment period.

At present, you are enrolled in your silver-level health coverage as of June 1, 2017 under Aid to Continue during the appeal process.

NYSOH is directed to change your eligibility for APTC up to \$374.00 and cost-sharing reductions and your enrollment in your silver-level qualified health plan to full eligibility and enrollment for the remainder of your health insurance year. NYSOH will notify you once this has been done.

Legal Authority

We are sending you this notice 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)

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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 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)

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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.