



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

Notice of Decision

Decision Date: September 11, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019464

[REDACTED]

Dear [REDACTED],

On August 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 13, 2017 disenrollment and May 17, 2017 enrollment confirmation 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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Decision

Decision Date: September 11, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019464

[REDACTED]

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 your enrollment in a qualified health plan (QHP) and the application of advance payments of the premium tax credit (APTC) were effective no earlier than July 1, 2017?

Procedural History

On February 3, 2017, you filed an application with NYSOH for financial assistance.

On February 4, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$242.00 per month in APTC for a limited time, effective March 1, 2017. The notice further directed you to submit documentation of your income by May 4, 2017.

Also on February 4, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Emblem Health gold level QHP and an Empire Blue Cross/Blue Shield dental plan with a total monthly premium of \$424.71, beginning March 1, 2017.

On May 9, 2017, NYSOH redetermined your eligibility for financial assistance.

On May 10, 2017, NYSOH issued notice stating that you were newly eligible to purchase a QHP at full cost through NYSOH, effective June 1, 2017. You were

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no longer eligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application.

Also on May 10, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in a QHP and a dental plan, with a total monthly premium of \$666.71.

On May 11, 2017, you updated your NYSOH account and reapplied for financial assistance.

On May 12, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive APTC of up to \$172.00 per month, effective June 1, 2017.

On May 13, 2017, NYSOH issued a disenrollment notice stating that your enrollment in your QHP and your dental plan were ending, effective May 31, 2017, because you asked for your coverage to end on May 11, 2017.

On May 17, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in the same Emblem Health gold level QHP and Empire Blue Cross/Blue Shield dental plan, with a total monthly premium of \$494.71, after the application of your APTC. This enrollment began on July 1, 2017.

On June 1, 2017, you spoke to NYSOH's Account Review Unit and appealed the enrollment confirmation notice, insofar as it began your enrollment in a QHP on July 1, 2017, and not June 1, 2017.

On August 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 support the following findings of fact:

- 1) You submitted an application to NYSOH for financial assistance on February 3, 2017.
- 2) You were found eligible to receive APTC of \$242.00 per month for a limited time, pending submission of income documentation by May 4, 2017.
- 3) No documentation was received by NYSOH by May 4, 2017.

- 4) NYSOH reran your eligibility on May 9, 2017, and determined that you were no longer eligible to receive APTC, effective June 1, 2017, because you had not submitted documentation to confirm your income.
- 5) You testified that you did not realize that you needed to submit income documentation.
- 6) You acknowledged receiving the February 4, 2017 eligibility determination, but testified that you did not remember that you had to submit income documentation, and feel that you should not have been disenrolled without being sent some type of notice reminding you of the request for documentation.
- 7) You testified that you received several emails on May 10, 2017 from NYSOH regarding notices in your NYSOH account. You testified that you logged in and saw that your eligibility had changed, and you had lost your tax credit.
- 8) You testified that you called NYSOH the following morning and updated your application.
- 9) Your NYSOH account reflects that your application was updated on May 11, 2017, and you were found eligible for APTC of \$172.00 per month, beginning June 1, 2017.
- 10) You testified that the individual you spoke with on May 11, 2017 reviewed some other plans with you, but you asked her to keep everything the same, as you have chronic medical conditions and did not want to risk changing to a new plan without knowing whether it was accepted by your providers.
- 11) You testified that the representative advised you that, if you wanted to change your plan, you would need to do so by the fifteenth for the coverage to take effect by June 1, 2017.
- 12) You testified that you never asked to end your coverage, and that you would have been willing to pay the full premium for June 2017, if necessary, as you received medical treatment costing thousands of dollars in June 2017.
- 13) You testified that, when you receive the notice stating that you were not going to have coverage as of June 1, 2017, you contacted NYSOH and asked if you could pay the full premium for that month, but were told that they could not put you into coverage for June 2017.
- 14) Your NYSOH account reflects that your QHP was re-selected on May 16, 2017, and you were re-enrolled with a start date of July 1, 2017.

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15) You testified that you need coverage for the month of June 2017 because you have thousands of dollars in medical bills.

16) You testified that you are also now being charged the full premium amounts for March, April, and May 2017 by your QHP, and that your QHP informed you that NYSOH made a determination to take back the tax credits you received for those months.

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

Applicable Law and Regulations

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of APTC for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

Enrollment in a Qualified Health Plan

The effective date of coverage by a QHP is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your enrollment in a QHP and dental plan began on July 1, 2017.

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You initially were enrolled into a QHP and dental plan as of March 1, 2017, and were receiving APTC toward the cost of your premium. Your eligibility was conditioned on receipt by NYSOH of documentation confirming your income. When NYSOH did not receive the requested documentation, your APTC was removed, as of May 31, 2017.

You testified that you did not remember that you needed to submit income documentation, and feel that you should have been sent a reminder. However, it is not necessary to reach the merits of your argument, as you updated your application on May 11, 2017, and your APTC was reinstated as of June 1, 2017. Therefore, there was no gap in your APTC eligibility.

You credibly testified that, when you updated your account on May 11, 2017, the representative who assisted you went over some plan options with you, but that you ultimately asked her to keep you in your same QHP. You also credibly testified that you never asked to be disenrolled from your QHP.

Nevertheless, it appears that a NYSOH representative inadvertently disenrolled you from your QHP on May 11, 2017, causing your enrollment to end as of May 31, 2017. On May 16, 2017, you reselected your QHP.

The date on which a QHP can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the first day to and including fifteenth day of a month goes into effect on the first day of the following month. A plan that is after the fifteenth day of a month goes into effect on the first day of the second following month.

You selected your QHP on May 16, 2017, after the fifteenth of the month. Ordinarily, then, your enrollment in your QHP would have properly started on the first day of the second month following May; that is, on July 1, 2017.

However, if NYSOH had not erroneously disenrolled you from your plan on May 11, 2017, you would not have had to come back to NYSOH and reselect your QHP for enrollment, and would not have had a gap in coverage.

Therefore, NYSOH's May 13, 2017 disenrollment notice is **RESCINDED**.

NYSOH's May 17, 2017 enrollment confirmation notice is **MODIFIED** to state that your enrollment in your QHP and your dental plan, with the application of your \$172.00 in APTC, began on June 1, 2017.

Your case is **RETURNED** to NYSOH to reinstate you in your Emblem Health gold level QHP, and your Empire Blue Cross/Blue Shield dental plan, for the month of June 2017, with an APTC of \$172.00 applied to your premium.

During the hearing, you testified that your APTC was retroactively terminated back to March 1, 2017, and that your QHP is now directing you to pay the full premium for coverage dating back to March 1, 2017. Any changes in APTC are to be made effective the date following the eligibility determination notice. Accordingly, your APTC should have only been affected as of June 1, 2017, the month following the May 10, 2017 eligibility redetermination. NYSOH Appeals Unit does not have authority to hear issues involving QHP billing and payments.

Therefore, your case is RETURNED to Plan Management to investigate whether your plan is incorrectly billing you for months when you should have been receiving APTC.

Decision

The May 13, 2017 disenrollment notice is RESCINDED.

The May 17, 2017 enrollment confirmation notice is MODIFIED to state that your enrollment in your Emblem Health QHP and Empire Blue Cross/Blue Shield dental plan, along with the application of your \$172.00 in APTC, began on June 1, 2017.

Your case is RETURNED to NYSOH to reinstate you in your QHP and your dental plan for the month of June 2017, and to ensure that your \$172.00 APTC is applied toward your premium for that month.

Your case is RETURNED to Plan Management in order to investigate whether or not your plan is incorrectly billing you for months when you should have been receiving APTC, namely March, April, and May 2017.

Effective Date of this Decision: September 11, 2017

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

Your enrollment in your QHP and dental plan, along with the application of your \$172.00 in APTC, should have started on June 1, 2017.

Your case is being sent back to NYSOH to reinstate you in your QHP and dental plan coverage for the month of June 2017. You will be responsible for any outstanding premium payments.

Your case is also being sent back so that Plan Management can investigate your claim that your QHP retroactively terminated your APTC for the months of March, April, and May 2017.

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:

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).

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The May 13, 2017 disenrollment notice is RESCINDED.

The May 17, 2017 enrollment confirmation notice is MODIFIED to state that your enrollment in your Emblem Health QHP and Empire Blue Cross/Blue Shield dental plan, along with the application of your \$172.00 in APTC, began on June 1, 2017.

Your case is RETURNED to NYSOH to reinstate you in your QHP and your dental plan for the month of June 2017, and to ensure that your \$172.00 APTC is applied toward your premium for that month.

Your case is RETURNED to Plan Management in order to investigate whether or not your plan is incorrectly billing you for months when you should have been receiving APTC, namely March, April, and May 2017.

This decision does not change your eligibility.

Your enrollment in your QHP and dental plan, along with the application of your \$172.00 in APTC, should have started on June 1, 2017.

Your case is being sent back to NYSOH to reinstate you in your QHP and dental plan coverage for the month of June 2017. You will be responsible for any outstanding premium payments.

Your case is also being sent back so that Plan Management can investigate your claim that your QHP retroactively terminated your APTC for the months of March, April, and May 2017.

Legal Authority

We are issuing this determination in accordance with 45 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).

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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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)

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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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