



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

Notice of Decision

Decision Date: September 29, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019579

[REDACTED]

Dear [REDACTED],

On September 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 19, 2017 disenrollment notice and May 10, 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 NY State of Health Account ID at the top of this notice.

Legal Authority

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).

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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Decision Date: September 29, 2017

NY State of Health Account ID: [REDACTED]
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[REDACTED]

Issues

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

Did NY State of Health properly terminate the qualified health plan (QHP) you, your spouse, and your oldest child were enrolled in for non-payment of premium, effective March 1, 2017?

Did NY State of Health properly deny your request to re-enroll you, your spouse and your oldest child in a QHP outside the open enrollment period?

Procedural History

On February 15, 2017, NY State of Health (NYSOH) issued an eligibility determination notice, based on your February 14, 2017 application, stating that you, your spouse and your oldest child (child) were eligible to share in up to \$955.00 in APTC and eligible to receive cost-sharing reductions if you, your spouse and your child enrolled in a silver-level QHP, effective March 1, 2017. That notice stated that you, your spouse and your child were not eligible for the Essential Plan because your household income was over the maximum allowable income limit for that program. That notice also stated that you must pay the monthly premium to start and keep health insurance coverage.

Also on February 15, 2017, NYSOH issued a plan enrollment notice confirming you, your spouse and your child were enrolled in a bronze-level QHP with a premium of \$67.32 per month, effective March 1, 2017.

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On March 19, 2017, NYSOH issued a disenrollment notice stating that your, your spouse and your child's enrollment in your QHP was terminated, effective March 1, 2017, because you did not pay your insurance bill by the payment deadline.

On May 10, 2017, NYSOH issued an eligibility determination notice, based on your May 9, 2017 application, stating in relevant part that you, your spouse and your child did not qualify to select a health plan outside of the open enrollment period for 2017.

On June 6, 2017, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination insofar as you, your spouse and your child were not eligible to enroll in a health plan outside of the open enrollment period.

On September 6, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open until September 21, 2017, to allow you to submit proof of household income.

On September 18, 2017, you submitted a copy of your paystub from an employer dated August 4, 2017, an electronically executed letter of resignation dated July 17, 2017, a copy of four consecutive weekly current paystubs from your employer dated August 9, 2017 through August 30, 2017, and a copy of spouse's two consecutive bi-weekly current paystubs dated August 25, 2017 and September 8, 2017. These documents were made part of the record as "Appellant's Exhibit A." No further documentation was received as of September 21, 2017, and the record closed that day.

Findings of Fact

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

- 1) According to your NYSOH account, you, your spouse and your child were enrolled in a bronze-level QHP through NYSOH as of March 1, 2017.
- 2) You testified that you attempted to make an online payment but were having difficulties. Although you were not sure of the exact date, sometime after March 10, 2017, you called the health plan and the health plan representative walked you through the online payment process. Your premium payment was made and the health plan accepted it. However, the health plan has since refunded that payment.
- 3) According to your NYSOH account, you, your spouse and your child were disenrolled from your QHP for non-payment of premium, effective March 1, 2017.

- 4) You testified that you contacted the health plan and they declined to reinstate your, your spouse's and your child's health coverage.
- 5) You testified that your income of \$55,000.00, as attested to on your February 14, 2017 and May 9, 2017 applications was probably too high. You further testified that this was because you changed jobs and think you earn approximately \$200.00 less per week.
- 6) According to your NYSOH account and your testimony, you expect to file your 2017 income tax return as married filing jointly and will claim two dependents on that tax return.
- 7) On September 18, 2017, you submitted a copy of your paystub from an employer dated August 4, 2017, and an electronically executed letter of resignation dated July 17, 2017. These documents show that you were employed with [REDACTED] at least until July 31, 2017.
- 8) On September 18, 2017, you also submitted a copy of four consecutive weekly current paystubs from [REDACTED], dated August 9, 2017 through August 30, 2017. These documents show that you began this job on July 29, 2017.
- 9) Your application states that you will not be taking any deductions on your 2017 tax return.
- 10) You testified that since filing your application on February 14, 2017, there have been no other major changes to your household.
- 11) You testified that you did not rely on any statements made by NYSOH that prevented you in enrolling in a QHP sooner.
- 12) According to your NYSOH account you live in [REDACTED], New York.

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

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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 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.

- (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.

(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” such as failure to comply with other requirements (45 CFR § 147.128(b))

(45 CFR § 155.420(e)).

Legal Analysis

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

On February 15, 2017, you, your spouse and your child were enrolled in a QHP for the 2017 coverage year with a monthly premium of \$67.32, effective March 1, 2017.

You testified that you attempted to make an online payment but were having difficulties. Although you were not sure of the exact date, sometime after March 10, 2017, you called the health plan and the health plan representative walked you through the online payment process. Your premium payment was made and the health plan accepted it. However, since then, the health plan has refunded that payment and has declined to reinstate your, your spouse’s and your child’s coverage.

On March 19, 2017, NYSOH issued a notice stating that you, your spouse and your child were disenrolled from your QHP for non-payment of the premium, effective April 30, 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.

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

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whether you, your spouse and your child were properly terminated from your health plan for non-payment of premiums. Therefore, your appeal of the March 19, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

The second issue under review is whether NYSOH properly denied your request to re-enroll you, your spouse and your child in a QHP outside the open enrollment period.

NYSOH provided an open enrollment period from November 1, 2016 until January 31, 2017. On May 9, 2017, after the open enrollment period ended, you requested to re-enroll yourself, your spouse and your child into a QHP but were unable to do so.

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. To qualify for a special enrollment period, a person must experience a triggering event.

Generally, when an enrollee or enrollee's dependent is newly eligible or ineligible for APTC, or has a change in eligibility for cost sharing reductions, that is considered a triggering life event.

According to your NYSOH account and your testimony, you expect to file your 2017 income tax return as married filing jointly and will claim two dependents on that tax return. Therefore, for purposes of these analyses, you live in a four-person household.

The application that you submitted on February 14, 2017 and May 9, 2017 lists an annual household income of \$55,000.00, which is 226.34% of the applicable FPL. Based on this information you provided, NYSOH found you eligible for APTC and eligible for cost sharing reductions, the latter of which is available to persons whose income is less than 250% of the applicable FPL.

You testified that you expect your income to decrease since you are no longer working for [REDACTED]. However, at the time of your May 9, 2017 application, you were still employed by the [REDACTED] and, therefore, your gross annual household income would not have decreased at that time. As such, NYSOH properly determined your household income to be \$55,000.00 based on the information you attested to in your application.

The record reflects that NYSOH based the May 9, 2017 eligibility determination on income information you provided at the time and that income information did not reflect a change in eligibility from your, your spouse's and your child's February 14, 2017 application. Therefore, a special enrollment period cannot be granted on this basis.

The credible evidence of record indicates that, since the open enrollment period closed on January 31, 2017, no other triggering events have occurred that would qualify you, your spouse or your child for a special enrollment period.

Therefore, NYSOH properly denied your request for a special enrollment period to enroll yourself, your spouse and your child in a health plan and the May 10, 2017 eligibility determination notice is AFFIRMED.

You are required to report changes in your household to NYSOH within 30 days of such change, including changes of income and size. If your income has decreased, you must contact NYSOH to update the income information in your NYSOH account.

Decision

Your appeal of the March 19, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

The May 10, 2017 eligibility determination notice is AFFIRMED.

NYSOH's May 9, 2017 denial of your request for a special enrollment period for you, your spouse, and your child to select a health plan outside of the open enrollment period for 2017 is AFFIRMED.

Effective Date of this Decision: September 29, 2017

How this Decision Affects Your Eligibility

You, your spouse, and your child did not qualify for a special enrollment period as of May 9, 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.

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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 March 19, 2017 disenrollment notice is **DISMISSED** as a non-appealable issue.

The May 10, 2017 eligibility determination notice is **AFFIRMED**.

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NYSOH's May 9, 2017 denial of your request for a special enrollment period for you, your spouse, and your child to select a health plan outside of the open enrollment period for 2017 is AFFIRMED.

You, your spouse and your child did not qualify for a special enrollment period as of May 9, 2017.

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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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. y&b&tumi 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.

שׂוֹדֵיִשׁ (Yiddish)

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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.

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