



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

Notice of Decision

Decision Date: October 6, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019730

[REDACTED]

Dear [REDACTED],

On September 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 14, 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: October 6, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019730



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 do not qualify to enroll in a qualified health plan outside of the open enrollment period, effective July 1, 2017?

Procedural History

On June 13, 2017, NYSOH received your application for financial assistance.

That day, a preliminary eligibility determination was prepared finding you and your spouse eligible to share in tax credits and that your children were eligible to enroll in a Child Health Plus plan with a premium of \$45.00 each per month, effective July 1, 2017. You attempted to enroll yourself and your spouse into a qualified health plan and your children in a Child Health Plus plan but were unable to select a plan for your, your spouse's and your children's enrollment.

Also on June 13, 2017, you spoke to NYSOH's Account Review Unit and appealed your and your spouse's inability to enroll into a qualified health plan outside of the open enrollment period, as well as your inability to enroll your children in a Child Health Plus plan.

On June 14, 2017, NYSOH issued an eligibility determination notice, consistent with the June 13, 2017 preliminary eligibility determination, stating that you and your spouse were eligible to share in an advance premium tax credit of up to \$269.00 per month and that your children were eligible to enroll in a Child Health

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Plus plan with a premium of \$45.00 each per month, effective July 1, 2017. The notice stated that you and your spouse did not qualify to select a health plan outside of the open enrollment period for 2017. It further stated that you must pick a plan for your children.

On June 25, 2017, NYSOH issued a plan enrollment notice confirming your children's enrollment in a Child Health Plus plan, effective August 1, 2017.

On September 13, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your request to amend your appeal to only your and your spouse's inability to enroll in a qualified health plan was granted and testimony was received. The record was developed during the hearing and held open to September 28, 2017, to allow you to submit supporting documents.

On September 13, 2017, you submitted proof of termination of your and your spouse's third-party health insurance. These two documents were made part of the record as "Appellant's Exhibit A." The record is now closed.

Findings of Fact

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

- 1) On June 13, 2017 you applied for health insurance for you and your family. You attempted to enroll you and your family in health coverage that day but were unable to do so.
- 2) You testified, and submitted documentation to show, that you and your spouse lost your prior minimum essential health coverage through your employer on June 30, 2017 (see Appellant's Exhibit A).
- 3) According to your NYSOH account and your testimony, your children are now enrolled in a Child Health Plus plan as of August 1, 2017. You no longer need to pursue your inability to enroll your children into a plan.
- 4) Your testified that you are appealing because, due to your variability in hours worked through your employer, your and your family's eligibility for your employer sponsored health insurance changes frequently. You would like to be able to re-enroll in coverage through 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.

(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 qualified health plan (45 CFR § 155.420(c)(1)). A qualified individual or his or her dependent who loses health insurance considered to be minimum essential coverage has 60 days before or after to loss of eligibility for qualifying coverage in an eligible employer-sponsored plan to select a QHP (45 CFR § 155.420(c)(2)(ii)).

Legal Analysis

It is noted that the original appeal included an appeal of your children's inability to enroll in a Child Health Plus plan through NYSOH. According to your NYSOH account and your testimony at hearing, your children have since been enrolled in Child Health Plus and your request to amend the appeal to just your and your spouse's ineligibility for a special enrollment period was granted by the Hearing Officer. Therefore, your children's ability to enroll in a Child Health Plus plan will not be discussed herein.

The only issue under review remains as whether NYSOH properly determined that you and your spouse did not qualify to enroll in a qualified health plan outside of the open enrollment period, effective July 1, 2017.

NYSOH provided an open enrollment period from November 1, 2016 until January 31, 2017. On June 13, 2017, after the open enrollment period was over, you applied for health insurance and requested to enroll you and your spouse into a qualified health plan. On June 14, 2017, NYSOH issued a notice stating in relevant part that you and your spouse do 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. To qualify for a special enrollment period, a person must experience a triggering event.

You testified, and submitted documentation to show, that you and your spouse lost your previous minimum essential health coverage through your employer on June 30, 2017 (see Appellant's Exhibit A). Loss of insurance coverage outside of NYSOH is considered a triggering life event.

When a triggering life event occurs, such as loss of minimum essential coverage, the qualified individual has 60 days before or after to loss of eligibility for qualifying coverage in an eligible employer-sponsored plan to select a qualified health plan.

Since 60 days before June 30, 2017 is April 30, 2017 and from June 30, 2017 is August 29, 2017, you and your spouse would have qualified to select a qualified health plan outside of the open enrollment period from April 30, 2017 through August 29, 2017.

The credible evidence of record indicates that your and your spouse's application for health insurance was submitted on June 13, 2017, prior to the expiration of the special enrollment period you and your spouse were entitled to in advance of losing employer-sponsored coverage as of April 30, 2017. Further, the special enrollment period after loss of coverage was not allowed until August 29, 2017.

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Due to error on the part of NYSOH, your application was not properly processed within the 60-day period before or after you both lost minimum essential health coverage.

Therefore, NYSOH's June 14, 2017 eligibility determination notice that stated you and your spouse did not qualify to select a health plan outside of the open enrollment period for 2017 is MODIFIED to reflect that you and your spouse were eligible for a special enrollment period as of the date of your June 13, 2017 application or, in the alternative, 60 days from the date of this Decision.

Your case is RETURNED to NYSOH to assist you and your spouse in enrolling into a qualified health plan. You and your spouse may choose to enroll into a qualified health plan as of June 13, 2017 because, had your application been processed that day, you and your spouse would have been eligible for a special enrollment period due to your loss of minimum essential health coverage through your employer-sponsored insurance. In the alternative, you and your spouse may elect to enroll into coverage within 60 days from the date of this decision.

Decision

The June 14, 2017 eligibility determination notice that stated you and your spouse did not qualify to select a health plan outside of the open enrollment period for 2017 is MODIFIED to reflect that you and your spouse were eligible for a special enrollment period as of the date of your June 13, 2017 application.

Your case is RETURNED to NYSOH to assist you and your spouse in enrolling in a qualified health plan. You and your spouse may choose to enroll into a qualified health plan as of June 13, 2017 or, in the alternative, 60 days from the date of this Decision.

Effective Date of this Decision: October 6, 2017

How this Decision Affects Your Eligibility

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

Your case is being sent back to NYSOH to allow you and your spouse to enroll in a qualified health plan as of June 13, 2017, if you so choose, with an August 1, 2017 enrollment start date. In the alternative, you and your spouse may elect to enroll in coverage within 60 days from the date of this Decision.

You will be responsible for any premium payments to the health plan directly for the months you and your spouse are enrolled in coverage.

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).

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
- By mail at:
NY State of Health Appeals
P.O. Box 11729

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The June 14, 2017 eligibility determination notice that stated you and your spouse did not qualify to select a health plan outside of the open enrollment period for 2017 is MODIFIED to reflect that you and your spouse were eligible for a special enrollment period as of the date of your June 13, 2017 application.

Your case is RETURNED to NYSOH to assist you and your spouse in enrolling in a qualified health plan. You and your spouse may choose to enroll into a qualified health plan as of June 13, 2017 or, in the alternative, 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 and your spouse to enroll in a qualified health plan as of June 13, 2017, if you so choose, with an August 1, 2017 enrollment start date. In the alternative, you and your spouse may elect to enroll in coverage within 60 days from the date of this Decision.

You will be responsible for any premium payments to the health plan directly for the months you and your spouse are enrolled in coverage.

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 এই নথি বুঝতে সাহায্যের প্রয়োজন হয়, তবে দয়া করে 1-855-355-5777-এ কল করুন।
আপনার ভাষায় একটি ব্যক্তি নি:শুল্ক উপলব্ধ করা যেতে পারে।

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 नि:शुल्क 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 नि:शुल्क 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. yebetumi 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.

אַײַדיש (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.

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).