



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

Notice of Decision

Decision Date: November 6, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020275

[REDACTED]

Dear [REDACTED],

On September 26, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's NYSOH's June 16, 2017 verbal denial of a special enrollment period.

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

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020275



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 did not qualify for a special enrollment period to reenroll in health insurance outside of the open enrollment period for 2017?

Procedural History

On April 26, 2017, NYSOH received your updated application for health insurance.

On April 27, 2017, NYSOH issued a notice of eligibility determination stating you were eligible to purchase a qualified health plan (QHP) at full cost, effective June 1, 2017. The notice also stated that you qualified to select a health plan outside of the 2017 open enrollment period, and that you had until May 30, 2017 to select a plan.

Also, on April 27, 2017, NYSOH issued a notice of enrollment, confirming your enrollment in a QHP, with a monthly premium of \$524.77 and an enrollment start date of April 1, 2017.

On June 6, 2017, NYSOH issued a disenrollment notice stating your QHP enrollment was terminated, effective April 30, 2017, because you did not pay your insurance bill by the payment deadline.

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On July 7, 2017, NYSOH issued an eligibility determination notice, based on your July 6, 2017 updated application, stating you were eligible to purchase a QHP at full cost, effective August 1, 2017. The notice further stated that you may be eligible to enroll in coverage if you qualified for a special enrollment period.

Also on July 7, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you were not able to reenroll in a health plan outside of the open enrollment period for 2017.

On September 26, 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 supports the following findings of fact:

- 1) You submitted an updated application for health insurance on April 26, 2017. That application indicated that your prior health coverage through your employer ended on March 31, 2017.
- 2) You testified your prior health coverage was through your business and that coverage ended on March 31, 2017, because your business ended.
- 3) You were determined eligible to purchase a full cost QHP and you were granted a special enrollment period, until May 30, 2017, to select a health plan, based on your March 31, 2017 loss of prior health coverage.
- 4) You enrolled into a QHP online on April 26, 2017.
- 5) According to your account, your coverage through your QHP became effective on April 1, 2017. The April 28, 2017 enrollment notice confirmed your enrollment start date.
- 6) You testified that you did not request to begin your QHP coverage on April 1, 2017.
- 7) You testified that you waited to receive an invoice from the health plan to send your initial premium payment. You testified that you sent your first premium payment on May 5, 2017. You further testified that you believed that premium payment was for the May 2017 premium.
- 8) According to your account, your health plan initiated termination of your QHP coverage on June 5, 2017 for non-payment of the May 2017 premium. Your coverage ended April 30, 2017.

- 9) According to notes in your account, you contacted NYSOH on June 14, 2017 to request reinstatement in your QHP and you were referred to your health plan for resolution. Notes on June 16, 2017 include “NYSOH cannot reinstate without an SEP. This is not a valid SEP reason too.”
- 10) There is no record of NYSOH issuing you a written denial of a request for a special enrollment period.
- 11) On July 6, 2017, NYSOH received an updated application submitted on your behalf. You were determined eligible to purchase a full cost QHP. The eligibility determination notice issued indicated that you may be able to enroll in coverage if you qualified for a special enrollment period.
- 12) You have been without health coverage since April 30, 2017.
- 13) You testified there have been no significant changes to your household since applying for health insurance 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

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 certain triggering events occur, such as:

- (1) The qualified individual or his or her dependent involuntarily loses certain health insurance coverage:

- (a) Health insurance considered to be minimum essential coverage;

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(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

(c) Pregnancy-related coverage; or

(d) Medically needy coverage.

(2) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange; or a non-Exchange entity providing enrollment assistance or conducting enrollment activities; or

(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)).

Effective Date of Coverage

If a qualified individual is granted an SEP due to the loss of minimal essential coverage, and selects a new plan on or before the last date of that coverage, NYSOH must ensure that the new plan is effective on the first date of the month following the date that coverage was lost. If the new plan is selected after the date the previous coverage ends, then the new plan may be made effective on the first date of the month following plan selection (45 CFR § 155.420(b)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you did not qualify for a special enrollment period to reenroll in health insurance outside the open enrollment period for 2017.

NYSOH provided an open enrollment period from November 1, 2016 until January 31, 2017. The record indicates that you submitted an updated application on April 26, 2017. Therefore, you did not complete your application during the open enrollment period. However, in that application you indicated that you lost your employer sponsored health insurance coverage, which ended on March 31, 2017. Loss of minimum essential coverage, such as insurance through an employer, is considered a triggering life event.

When a triggering life event occurs, the qualified individual has sixty days from the date of that event to select a QHP. Accordingly, you were given a special enrollment period until May 30, 2017 to select a plan, which you did on April 26, 2017. On April 27, 2017, NYSOH issued an enrollment confirmation notice stating your enrollment in your QHP was effective as of April 1, 2017.

Pursuant to the above cited regulations, when an individual loses minimum essential coverage and is found eligible for a special enrollment period, the plan can be effective on the first day of the month following the month coverage was lost, only if the plan is selected before their prior coverage ends. In your case, if you had submitted your reapplication before March 31, 2017 – the last date of your health insurance coverage through your business – your NYSOH plan could have started April 1, 2017.

However, according to the regulations, if an individual selects a plan after the day on which he or she loses essential coverage, NYSOH can make that coverage effective on the first day of the month following the date of plan selection. Since you selected your plan on April 26, 2017, after your prior health coverage ended, your plan should not have started any earlier than May 1, 2017.

Therefore, the credible evidence of record indicates that NYSOH erred in making your enrollment effective April 1, 2017. As a result of this error, your initial premium payment was applied to the amount due for April, rather than May 2017 and you were subsequently disenrolled from your QHP, as of April 30, 2017, because, the health plan alleged it had not received a premium payment for the month of May 2017.

According to notes in your account, you contacted NYSOH on June 14, 2017 to request reinstatement in your QHP and you were referred to your health plan for resolution, because “NYSOH cannot reinstate without an SEP. This is not a valid SEP reason too.” Although there is no record of NYSOH issuing you a written denial of a request for a special enrollment period, the aforementioned notes in your account are sufficient evidence that NYSOH denied you a special enrollment period to reenroll into coverage.

Pursuant to the regulations, a special enrollment period can be granted if a qualified individual’s enrollment or non-enrollment into a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of NYSOH or its instrumentalities as evaluated and determined by the NYSOH.

Since your disenrollment from your QHP on June 6, 2017, effective April 30, 2017, was the direct result of NYSOH’s error in granting you a retroactive enrollment date that you did not request, and was not proper under the law, this error constituted a triggering event and you should have been eligible to select another health plan within 60 days of NYSOH’s error. When you contacted

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NYSOH on June 14, 2017 to request reinstatement in your QHP, you were within the 60-day window.

As such, NYSOH's June 16, 2017 verbal denial of a special enrollment period was not correct and is RESCINDED.

Your case is RETURNED to NYSOH to assist you in reenrolling into a QHP for 2017. You may choose to enroll into a QHP effective May 1, 2017, the date your coverage should have started if not for NYSOH's initial error of assigning a retroactive start date, or you may begin your coverage from this point forward.

Decision

NYSOH's June 16, 2017 verbal denial of a special enrollment period is RESCINDED.

Your case is RETURNED to NYSOH to assist you in enrolling into a plan for 2017 health coverage.

You may elect to reenroll into a QHP with coverage effective as early as May 1, 2017 or you may begin your coverage from this point forward.

Effective Date of this Decision: November 6, 2017

How this Decision Affects Your Eligibility

NYSOH erred in assigning a retroactive start date to your QHP coverage.

You qualified for a special enrollment period the date of your June 14, 2017 request for reinstatement.

You may elect to reenroll into a QHP with coverage effective as early as May 1, 2017 or you may begin your coverage from this point forward.

You will be responsible for premium payments for any month in which you are enrolled in coverage.

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:

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

NYSOH's June 16, 2017 verbal denial of a special enrollment period is **RESCINDED**.

Your case is **RETURNED** to NYSOH to assist you in enrolling into a plan for 2017 health coverage.

You may elect to reenroll into a QHP with coverage effective as early as May 1, 2017.

NYSOH erred in assigning a retroactive start date to your QHP coverage.

You qualified for a special enrollment period the date of your June 14, 2017 request for reinstatement.

You will be responsible for premium payments for any month in which you 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 مجاناً.

বাংলা (Bengali)

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।

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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 मददत चाहन्छिन् भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोलने 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 srɛ wo, frɛ 1-855-355-5777. yɛbɛtumi ama wo obi a okyerɛ 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 דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.