



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

Notice of Decision

Decision Date: October 4, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020448

[REDACTED]

Dear [REDACTED],

On September 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 19, 2017 eligibility determination, January 26, 2017 enrollment, and June 15, 2017 plan enrollment 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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NY State of Health Account ID: [REDACTED]
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Issues

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

Was your appeal of NY State of Health's (NYSOH) January 19, 2017, eligibility determination and January 26, 2017 plan enrollment notices timely?

Whether NYSOH's Appeals Unit can consider your request for reimbursement of your health insurance premiums and out-of-pocket expenses?

Did NYSOH properly enroll you and your spouse in an Essential Plan with an enrollment start date of July 1, 2017?

Procedural History

On January 19, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive up to \$568.00 monthly in tax credits, effective as of February 1, 2017.

On January 26, 2017, NYSOH issued a plan enrollment notice confirming that you and your spouse were enrolled in a qualified health plan (QHP) with an enrollment start date of March 1, 2017.

On May 10, 2017, your account was updated.

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On May 11, 2017, NYSOH issued a notice stating that your application had been reviewed; however, the income information did not match what NYSOH received from state and federal data sources. The notice directed you to provide proof of household income by May 25, 2017, to confirm your and your spouse's eligibility for financial assistance.

Also on May 11, 2017, NYSOH issued a disenrollment notice stating that your and your spouse's QHP coverage would end on May 31, 2017.

On May 16, 2017, additional documentation was uploaded to your account (see Documents [REDACTED]).

On May 17, 2017, NYSOH issued a notice stating that the documentation reviewed did not confirm the information in your application. The notice directed you to provide proof of household income by June 9, 2017, to confirm your and your spouse's eligibilities.

On May 22, 2017, additional documentation was uploaded to your account (see Documents [REDACTED]).

On June 6, 2017, your account was updated.

On June 7, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan with a \$20.00 premium per month for a limited time, effective July 1, 2017. The notice directed you to provide proof of household income by September 4, 2017, to confirm your and your spouse's eligibility for financial assistance.

On June 15, 2017, NYSOH issued a plan enrollment notice confirming that, as of June 14, 2017, you and your spouse were enrolled in an Essential Plan with an enrollment start date of July 1, 2017.

On July 6, 2017, you mailed an appeal request to NYSOH (see Document [REDACTED] uploaded 7/11/2017).

On September 27, 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) According to your NYSOH account and testimony, on January 18, 2017, you and your spouse applied for financial assistance with the assistance of a navigator.
- 2) According to your January 18, 2017 application, you attested that your expected yearly income was \$35,880.01, and your spouse's expected yearly income was \$22,620.00. Based on that attestation, your annual household income was calculated to be \$58,500.01.
- 3) You testified that you informed the navigator that the \$35,880.01 you expected to receive was workers' compensation benefits.
- 4) You testified that since the navigator entered the wrong information into your account, you and your spouse received the incorrect amount of financial assistance and was enrolled in the wrong health plan.
- 5) You testified that you received the January 2017 eligibility determination and plan enrollment notices that were issued by NYSOH.
- 6) According to your account and testimony, you and your spouse were enrolled in a QHP on January 26, 2017 with an effective date of March 1, 2017.
- 7) You testified that on May 10, 2017, you were informed by a NYSOH representative that your workers' compensation benefits should not have been included in your household income.
- 8) According to your account, on June 14, 2017, you and your spouse were enrolled in an Essential Plan.
- 9) On July 6, 2017, your spouse mailed an appeal request form to NYSOH. The request states that you and your spouse want the QHP enrollment from March 2017 through June 2017 to be voided, and the July 1, 2017 Essential Plan to be backdated to March 1, 2017. Further, you want all premiums and out-of-pocket expenses to be reimbursed (see Document [REDACTED]).
- 10) You testified the appeal request form that was mailed to NYSOH was your household's first attempt to request an appeal.

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

Applicable Law and Regulations

Valid Appeal Requests

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) an eligibility determination for an exemption; (4) a failure by NYSOH to provide timely notice of an eligibility determination; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505, 45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within 60 days of the date stated on the notice of eligibility determination or enrollment (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(1)).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan 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); see *also* 42 CFR § 600.320). 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 first issue under review is whether your appeal request of NYSOH's January 19, 2017 eligibility determination and January 26, 2017 plan enrollment notices was timely.

On January 19, 2017, and January 26, 2017, NYSOH issued notices stating respectively that you and spouse were eligible to receive up to \$568.00 monthly in tax credits and enrolled in a QHP with an enrollment start date of March 1, 2017.

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An appeal must be requested within sixty (60) days of the date stated on the notice of eligibility determination or enrollment notice, for which the individual or enrollee is requesting the appeal.

You testified that you received the January 2017 eligibility determination and enrollment notices that were issued by NYSOH. On July 6, 2017, an appeal request form was mailed to NYSOH (see Document [REDACTED]). You testified that the appeal request form was your household's first attempt to request an appeal of the January 2017 eligibility determination and enrollment notices.

For an appeal to be timely, it must be requested within 60 days of the January 2017 notices at issue. Therefore, your appeal should have been requested by March 20, 2017 or, at the latest, March 27, 2017. According to the credible evidence of record, your request was mailed to NYSOH on July 6, 2017, which is well outside the 60-day period to request an appeal. Since there has been no timely appeal request of the January 19, 2017 eligibility determination and January 26, 2017 enrollment notices, the appeal is DISMISSED as untimely.

The second issue under review is whether NYSOH's Appeals Unit can consider your request for reimbursement of health insurance premiums and out-of-pocket expenses.

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) an eligibility determination for an exemption, (4) a failure to provide timely notice of an eligibility determination and (5) a denial of a special enrollment period.

The Appeals Unit does not have the authority to review whether an individual should be reimbursed for premiums and out-of-pocket expense that have been paid. Such matters are contractual in nature and rest between the insurance provider and the insured to resolve. Therefore, your request for the reimbursement of premiums and out-of-pockets expenses is DISMISSED as a non-appealable issue.

The third issue under review is whether NYSOH properly determined that you and your spouse were enrolled in an Essential Plan with an enrollment start date of July 1, 2017.

The date on which enrollment in an Essential Plan 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 the fifteenth day of a month goes into effect on the first

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day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

The record reflects that you and your spouse were enrolled in an Essential Plan on June 14, 2017. Since you selected the Essential Plan on June 14, 2017, it properly took effect on the first day of the first month following June 14, 2017; that is on, July 1, 2017.

Therefore, the June 15, 2017 plan enrollment notice confirming that you and your spouse were enrolled in an Essential Plan with an enrollment start date of July 1, 2017, is AFFIRMED.

Decision

Your appeal request of the January 19, 2017 eligibility determination and January 26, 2017 plan enrollment notices is DISMISSED as untimely.

Your request for reimbursement for premiums and out-of-pockets expenses is DISMISSED as a non-appealable issue.

The June 15, 2017 plan enrollment notice is AFFIRMED.

Effective Date of this Decision: October 4, 2017

How this Decision Affects Your Eligibility

You and your spouse's eligibility remains unchanged.

You and your spouse were enrolled in an Essential Plan with an enrollment start date of July 1, 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 request of the January 19, 2017 eligibility determination and January 26, 2017 plan enrollment notices is **DISMISSED** as untimely.

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Your request for reimbursement for premiums and out-of-pockets expenses is DISMISSED as a non-appealable issue.

The June 15, 2017 plan enrollment notice is AFFIRMED.

You and your spouse's eligibility remains unchanged.

You and your spouse were enrolled in an Essential Plan with an enrollment start date of July 1, 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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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 bɛtumi 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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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