



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

Notice of Decision

Decision Date: November 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020545

[REDACTED]

[REDACTED]

On October 2, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 21, 2017 disenrollment notice and the June 21, 2017 enrollment confirmation 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 Date: November 10, 2017

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:

Is your appeal of the March 21, 2017 disenrollment notice timely?

Did NY State of Health (NYSOH) properly determine your enrollment in a qualified health plan was effective no earlier than August 1, 2017?

Procedural History

On December 15, 2016, NYSOH issued an eligibility determination notice stating you were eligible to enroll in the Essential Plan, for a limited time, effective January 1, 2017. The notice directed you to provide proof of your income to confirm your eligibility by March 14, 2017 or you might lose your insurance or receive less help paying for coverage.

Also on December 15, 2016, NYSOH issued an enrollment notice confirming you were enrolled in an Essential Plan, effective January 1, 2017.

On March 20, 2017, NYSOH systematically redetermined your eligibility for health insurance.

On March 21, 2017, NYSOH issued an eligibility determination notice stating you were eligible to receive advance payments of the premium tax credit (APTC) of up to \$288.00 monthly as well as cost-sharing reductions if you enrolled in a silver level plan, effective May 1, 2017. The notice indicated that your eligibility was based on income information obtained from data sources.

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Also on March 21, 2017, NYSOH issued a disenrollment notice stating your Essential Plan coverage would end on April 30, 2017, because you were no longer eligible to enroll in the plan.

On May 19, 2017, an updated application was submitted on your behalf. You were determined ineligible to receive financial assistance, but there is no record of any written notice of this eligibility issued by NYSOH.

On June 21, 2017, NYSOH issued an eligibility determination notice, based on your June 20, 2017 updated application, stating you were eligible to receive up to \$314.00 in APTC monthly as well as cost-sharing reductions if you enrolled in a silver level plan, effective August 1, 2017.

On June 21, 2017, NYSOH issued an enrollment notice, based on your June 20, 2017 plan selection, confirming you were enrolled in a qualified health plan, effective August 1, 2017.

On July 17, 2017, you spoke to NYSOH's Account Review Unit and appealed the effective date of your QHP insofar as your plan was not effective earlier than August 1, 2017.

On October 10, 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) On December 14, 2016, NYSOH received your updated application for health insurance. You were determined conditionally eligible for the Essential Plan pending receipt of documentation to confirm your income. You were directed to submit proof of your income by March 14, 2017.
- 2) You enrolled in an Essential Plan, effective January 1, 2017.
- 3) According to your account, at the time of the December 15, 2016 eligibility determination notice, you were receiving your notices from NYSOH by regular mail. There is no record that the December 15, 2016 eligibility determination notice was returned to NYSOH as undeliverable.
- 4) According to your account, no income documentation was received by March 14, 2017 and your eligibility was systematically redetermined on March 20, 2017 and you were determined eligible to receive up to \$288.00 in monthly APTC based on data sources.

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- 5) The March 21, 2017 disenrollment notice issued by NYSOH indicated your Essential Plan coverage would end on April 30, 2017, because you were no longer eligible for that plan. There is no record that this notice was returned to NYSOH as undeliverable.
- 6) Your account confirms that you contacted NYSOH on May 19, 2017 and an updated application for health insurance was submitted on your behalf. That application indicated you were eligible to enroll in health coverage through your employer, effective September 1, 2017.
- 7) Your account confirms that a preliminary eligibility determination was prepared by NYSOH on May 19, 2017 finding you ineligible for financial assistance, but no written determination of that eligibility was ever issued by NYSOH.
- 8) NYSOH reviewed the recording of the telephone call from May 19, 2017 and confirmed the following:
 - a. You indicated that you were eligible to enroll in health coverage through your employer, but you chose not to because it cost approximately \$100.00 per month for a single person and was too expensive.
 - b. You stated you did not know if the coverage offered through your employer provided a minimum value.
 - c. The NYSOH representative advised you that you were not eligible for financial assistance and indicated that you could appeal that eligibility.
- 9) Notes in your account indicate that incident [REDACTED] was created on May 19, 2017 regarding your ineligibility for financial assistance and you were directed to call back NYSOH with information regarding whether the health insurance offered through your employer met the “the minimum value standard.”
- 10) According to your account, you contacted NYSOH again on June 20, 2017 to update your application. The application submitted that day indicated that you were not eligible for health coverage through your employer.
- 11) You were determined eligible to receive up to \$314.00 in APTC, effective August 1, 2017.
- 12) According to your account, you selected a qualified health plan on June 20, 2017 and coverage through that plan became effective on August 1, 2017.

- 13) You testified you are seeking to have the coverage through your qualified health plan backdated to July 2017, because you have outstanding medical bills from that month.
- 14) You further testified that you do not think you should have been disenrolled from your Essential Plan on April 30, 2017, because you did not know you were required to submit income documentation to confirm your eligibility.
- 15) You testified that you spoke to your employer and learned that the health coverage offered through that employer only covered 20% of medical costs.
- 16) You testified that you emailed proof that the health coverage offered through your employer only covered 20% of medical costs to someone at NYSOH.
- 17) You testified you have never been enrolled in health coverage through your employer.

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) a failure by NYSOH to provide timely notice of an eligibility determination; and (4) 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 of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(1)).

Verification of Minimum Essential Coverage

NYSOH must verify whether an applicant is eligible for minimum essential coverage other than through an eligible employer-sponsored plan, Medicaid,

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CHIP, or the BHP, using information obtained by transmitting identifying information specified by HHS to HHS for verification purposes (45 CFR § 155.330(b)).

Advance Payments of Premium Tax Credit - Eligibility

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health 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)). 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 of the March 21, 2017 disenrollment notice was timely.

NYSOH issued a disenrollment notice on March 21, 2017 stating your coverage through your Essential Plan would end on April 30, 2017, because you were no longer eligible to enroll in that plan.

Pursuant to the above cited regulations, applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been timely on the issue of your April 30, 2017 disenrollment from your Essential Plan as stated in the March 21, 2017 disenrollment notice, an appeal should have been filed no later than May 20, 2017. According to your account, a formal appeal was not filed in this matter until July 17, 2017, long after the 60-day period in which to appeal had passed.

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It is noted that your account confirms you contacted NYSOH on May 19, 2017 to resubmit an application for health insurance and that you spoke to the Accounts Review Unit that day regarding your subsequent ineligibility for financial assistance. However, there is no evidence that you were contesting your disenrollment from your Essential Plan on that day. Rather the notes all indicate that you were inquiring about your current ineligibility for financial assistance based on your updated application. Thus, there is insufficient evidence in the record to justify tolling the regulatory time-period in which to appeal the March 21, 2017 disenrollment notice.

Therefore, given the facts of the case, there has been no timely appeal of the March 21, 2017 disenrollment notice, and your appeal on the issue of your April 30, 2017 disenrollment from your Essential Plan is DISMISSED.

The second issue under review is whether NYSOH properly determined your enrollment in a QHP was effective no earlier than August 1, 2017.

Your account confirms that you contacted NYSOH on May 19, 2017 and an updated application for health insurance was submitted on your behalf. That application indicated you were eligible to enroll in health coverage through your employer, effective September 1, 2017. Although there is no record that NYSOH issued a written determination of your eligibility following that application, your account confirms that a preliminary eligibility determination was prepared by NYSOH on May 19, 2017 finding you ineligible for financial assistance. You were found eligible to purchase a full cost qualified health plan.

The telephone call recording from May 19, 2017 confirms that you indicated you were eligible to enroll in health coverage through your employer, but you chose not to because it cost approximately \$100.00 per month for a single person and was too expensive. Furthermore, you stated you did not know if the coverage offered through your employer provided the required minimum value.

Pursuant to the above cited regulations, an applicant who is eligible for minimum essential coverage through an employer is not eligible to receive APTC. Thus, based on the information provided in your May 19, 2017 application, that you were eligible for employer sponsored health insurance that might provide minimum essential coverage, you were not eligible to receive APTC.

Your account confirms that you did not enroll into a full cost qualified health plan following the May 19, 2017 eligibility determination.

On June 20, 2017, you contacted NYSOH again and an updated application for health insurance was submitted on your behalf. The application indicated you were not eligible for health coverage through your employer. You testified that you spoke to your employer and learned that the health coverage offered through

that employer only covered 20% of medical costs. However, you have provided no evidence to support this statement.

You were determined eligible to receive up to \$314.00 in APTC, effective August 1, 2017. Your account confirms that you selected a qualified health plan for enrollment on June 20, 2017 and coverage through that plan became effective on August 1, 2017. You appealed insofar as coverage though that plan was not effective earlier.

Pursuant to the above cited regulations, the effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For selections received by NYSOH from the first to the fifteenth of any month NYSOH must generally ensure that coverage is effective the first day of the following month. 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.

The evidence establishes you selected your qualified health plan on June 20, 2017. Because you selected the plan after the fifteenth day of the month, that plan properly became effective on the first day of the second following month; that is, August 1, 2017.

Therefore, the June 21, 2017 enrollment confirmation notice stating your coverage through your qualified health plan became effective on August 1, 2017, is correct and must be AFFIRMED.

Decision

Your appeal of the March 21, 2017 disenrollment notice is DISMISSED.

The June 21, 2017 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: November 10, 2017

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You were disenrolled from your Essential Plan, effective April 30, 2017. Your enrollment in your qualified health plan became effective on August 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.

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

Your appeal of the March 21, 2017 disenrollment notice is **DISMISSED**.

The June 21, 2017 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your eligibility.

You were disenrolled from your Essential Plan, effective April 30, 2017.

Your enrollment in your qualified health plan became effective on August 1, 2017.

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 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 דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.