



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

Notice of Decision

Decision Date: October 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020758

[REDACTED]

Dear [REDACTED]

On October 4, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 10, 2017 eligibility determination notice, July 21, 2017 eligibility determination notice, and July 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: October 30, 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:

Did NY State of Health properly determine that your and your spouse's eligibility for advance payments of the premium tax credit ended effective July 1, 2017?

Did NY State of Health properly determine that your and your spouse's eligibility for and enrollment in an Essential Plan was effective September 1, 2017?

Procedural History

On December 10, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination stating that you and your spouse were eligible for up to \$796.00 per month in advance payments of the premium tax credit (APTC) and cost-sharing reductions if you enrolled in a silver level qualified health plan, effective January 1, 2017.

Also on December 10, 2016, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in a qualified health plan with APTC, effective January 1, 2017. Your and your spouse's premium after APTC of \$796.00 was applied was \$190.96.

On June 9, 2017, you updated your household's application for health insurance. Specifically, you removed your son from your account and updated your application to a non-financial assistance application.

On June 10, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to purchase a qualified health plan at full cost through NYSOH, effective July 1, 2017.

Also on June 10, 2017, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in a qualified health plan, effective January 1, 2017. Your and your spouse's premium was \$986.96.

On July 20, 2017, you updated your application for health insurance. Specifically, you updated your application to a financial application. That day, NYSOH prepared a preliminary eligibility determination with regard to that application stating that you and your spouse were eligible for the Essential Plan, effective September 1, 2017.

Also on July 20, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you and your spouse had no APTC for the months of July 2017 and August 2017 and your Essential Plans did not begin until September 1, 2017.

On July 21, 2017, NYSOH issued a notice of eligibility determination, based on your July 20, 2017 application, stating that you and your spouse were eligible to enroll in the Essential Plan, effective September 1, 2017.

Also on July 21, 2017, NYSOH issued a notice of enrollment, based on your plan selection on July 20, 2017, stating that you and your spouse were enrolled in an Essential Plan, and that your plan would start September 1, 2017.

On October 4, 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 testified that you had called NYSOH in order to remove your son from your account and that it was during this process that you mistakenly updated your and your spouse's application for health insurance to a non-financial application.

- 2) Your NYSOH account reflects that on June 9, 2017 user “██████” updated your application, removing your son from your account, and selecting a non-financial application.
- 3) You testified that “██████” is your username to access your NYSOH account.
- 4) You testified that you made the changes to your account on June 9, 2017 yourself on-line while you were on the phone with an NYSOH representative.
- 5) You testified, and your NYSOH account reflects, that you have elected to receive all your notices from NYSOH via electronic mail.
- 6) You testified that you did receive an e-mail alert regarding the June 10, 2017 notice of eligibility determination advising you that you and your spouse were eligible for a full cost qualified health plan.
- 7) You testified that you did not realize that you and your spouse had lost your tax credit until you received your premium bill in the first part of July 2017.
- 8) Your NYSOH account reflects that you submitted an application to NYSOH for financial assistance on July 20, 2017. Your NYSOH account reflects that you selected an Essential Plan for enrollment for yourself and your spouse that day.
- 9) You testified that you are seeking for your and your spouse’s APTC to be reinstated for the months of July 2017 and August 2017.
- 10) During the hearing, you gave permission for the Hearing Officer to listen to phone calls you had with NYSOH representatives.
- 11) The record reflects that on June 9, 2017 you had four phone calls with NYSOH representatives.
- 12) A review of the recording of the first phone call on June 9, 2017 reveals that you advised the NYSOH representative that you had removed your son from your account and were trying to apply for your son through his own account. The representative provided you with directions to be able to complete your son’s application. You then had technical difficulties signing in to your son’s account. The NYSOH representative advised you that they would need to transfer you to another department to address your technical issues. The NYSOH representative advised you that your and your spouse’s eligibility would change as your son had been removed from your account, and that you would need to complete your application in order to determine what your eligibility was going forward. The NYSOH

representative advised you that you could have someone look at your eligibility as well as your son's eligibility once the password issue had been resolved. The NYSOH representative then transferred you to another department to assist you with your on-line log-in.

- 13) A review of the recording of the second phone call on June 9, 2017 reveals that you requested assistance resetting your son's password for his account. You inquired regarding your coverage during this phone call, however, the NYSOH representative advised you that your application was showing as in-progress, therefore, the NYSOH representative could not see what your eligibility was. The NYSOH representative advised you that your application in-progress was showing as a non-financial application. The NYSOH representative explained that you would need to finish your application before you could tell if there were any changes to your eligibility.
- 14) A review of the recording of the third call on June 9, 2017 reveals that you were calling regarding your son's application and this call disconnected when you attempted to conference your son into the call.
- 15) A review of the recording of the fourth call on June 9, 2017 reveals that you went through your son's application on his own account. Upon completion of your son's application, you made inquiries regarding your own application, but indicated that you needed to finish the application. The NYSOH representative advised you where to look to see if there had been any changes to your coverage or premium amount and advised you to call back if your APTC amount had changed or if you were no longer eligible for APTC.
- 16) The record reflects that your next contact with NYSOH was on July 20, 2017.

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

Applicable Law and Regulations

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

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).

When an eligibility redetermination results in a change in the amount of advance payments of the premium tax credit (APTC) for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the month following the date of the notice (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

Electronic Notices

If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

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. 18, as approved January 2017; see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>).

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 NYSOH properly determined that your and your spouse's eligibility for APTC ended effective July 1, 2017.

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On June 9, 2017, you accessed your account on-line and updated your application from a financial application to a non-financial application.

You testified that you had made these changes while on the phone with an NYSOH representative. However, a review of the recordings of phone calls with NYSOH representatives that you had on June 9, 2017 indicates that you were calling regarding your son's application. At no point was an NYSOH representative updating your account or instructing you on how to update your account.

Furthermore, during your final phone call with NYSOH on June 9, 2017, the NYSOH representative advised you how to check the level of financial assistance you and your spouse were receiving and advised you that if there were any issues with your APTC, you should contact NYSOH. The record reflects that you did not contact NYSOH again until July 20, 2017.

Any changes in APTC are to be made effective the first day of the month following the eligibility redetermination notice.

As you updated you and your spouse's application from a financial assistance application to a non-financial assistance application, your APTC properly ended as of July 1, 2017, the first of the month following the June 10, 2017 eligibility redetermination.

Therefore, the June 10, 2017 eligibility determination notice stating that you and your spouse were eligible to purchase a qualified health plan at full cost through NYSOH, effective July 1, 2017, is AFFIRMED.

The second issue is whether NYSOH properly determined that you and your spouse's eligibility for and enrollment in the Essential Plan was effective September 1, 2017.

The record indicates, that you updated your and your spouse's NYSOH application on July 20, 2017. As a result, you and your spouse were found eligible for the Essential Plan as of September 1, 2017 and enrolled into a plan that day.

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 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.

On July 20, 2017, you selected an Essential Plan, so you and your spouse's enrollment properly took effect on the first day of the second month following July 2017; that is, on September 1, 2017.

Therefore, the July 21, 2017 eligibility determination notice and the July 21, 2017 enrollment confirmation notice stating that you and your spouse's eligibility for and enrollment in the Essential Plan was effective September 1, 2017, are correct and must be AFFIRMED.

Decision

The June 10, 2017 eligibility determination notice is AFFIRMED.

The July 21, 2017 eligibility determination notice is AFFIRMED.

The July 21, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: October 30, 2017

How this Decision Affects Your Eligibility

This decision does not change your and your spouse's eligibility.

NYSOH properly found you and your spouse ineligible to receive APTC, effective July 1, 2017, because you changed your application to a non-financial assistance application.

The effective date of your and your spouse's Essential Health Plan is September 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.

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).

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

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

This decision does not change your and your spouse's eligibility.

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).

NYSOH properly found you and your spouse ineligible to receive APTC, effective July 1, 2017, because you changed your application to a non-financial assistance application.

The July 21, 2017 eligibility determination notice is AFFIRMED.

The July 21, 2017 eligibility determination notice is AFFIRMED.

The effective date of your and your spouse's Essential Health Plan is September 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&etumi ama wo obi a okyerε 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.

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