



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

Notice of Decision

Decision Date: November 8, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021713

[REDACTED]

[REDACTED]

On October 26, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 12, 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.

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Decision

Decision Date: November 8, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021713

[REDACTED]

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 do not qualify to enroll in a qualified health plan (QHP) outside of the 2017 open enrollment period?

Procedural History

On October 8, 2016, NYSOH issued a renewal notice, stating that it was time to renew your application for health insurance. The notice stated that, based on information available from state and federal data sources, NYSOH could not determine whether you were eligible to receive financial assistance with the cost of health insurance in 2017. The notice directed you to update your account between October 16, 2016 and November 15, 2016, or you could lose the financial assistance you were receiving.

On November 15, 2016, you updated your NYSOH account.

On November 16, 2016, NYSOH issued a notice of eligibility determination stating that you were newly eligible to receive up to \$233.00 per month in advance payments of the premium tax credit (APTC), effective December 1, 2016.

That same day, NYSOH issued a notice of enrollment confirmation, stating that you were enrolled in a Fidelis bronze level QHP, beginning December 1, 2016, with a monthly premium of \$298.09.

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Also on November 16, 2016, NYSOH issued another renewal notice. This notice again stated that you needed to renew your application so that NYSOH could determine your eligibility for financial assistance for 2017. This time, the notice directed you to update your application between November 16, 2016 and December 15, 2016, or you could lose the financial assistance you were receiving.

On November 27, 2016, NYSOH issued a disenrollment notice, stating that your enrollment in your QHP would end December 31, 2016 because you were no longer eligible to remain enrolled in that coverage.

On December 19, 2016, NYSOH redetermined your eligibility.

On December 20, 2016, NYSOH issued a notice of eligibility determination stating that you were newly eligible to enroll in a QHP at full cost, effective January 1, 2017. This was because you had not responded to the renewal notice and had failed to renew your application within the required timeframe.

On July 11, 2017, you updated your NYSOH application.

On July 12, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$296.00 per month in APTC, and eligible for cost-sharing reductions if you enrolled in a silver level QHP. The notice also stated that you did not qualify to enroll in a QHP outside of the 2017 open enrollment period.

On August 22, 2017, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination, insofar as you were not eligible to enroll in a health plan outside of the 2017 open enrollment period.

On October 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 were enrolled in Medicaid through NYSOH and were granted 12 months of continuous Medicaid coverage through November 30, 2016.
- 2) NYSOH sent you a renewal notice on October 8, 2016 stating that you needed to update your NYSOH account so that NYSOH could determine your eligibility going forward. The notice stated that you needed to update your account by November 15, 2016.

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- 3) You testified that you received this renewal notice and updated your account on November 15, 2016, and your NYSOH account confirms this.
- 4) You testified that you had no idea that you were simply renewing your coverage for one month, and that you thought you were all set for 2017.
- 5) You testified that you received the November 16, 2016 notice informing you that you were enrolled in a QHP as of December 1, 2016.
- 6) You testified that you do not recall receiving a second renewal notice dated November 16, 2016.
- 7) You testified, and your NYSOH account confirms, that you receive notices from NYSOH by regular mail.
- 8) No mail sent to you by NYSOH has been returned as undeliverable.
- 9) You testified that your mailing address in November 2016 was [REDACTED]
[REDACTED].
- 10) You testified that you paid a nearly \$300.00 premium for the month of December 2016.
- 11) You testified that you enrolled to have premiums automatically deducted from your checking account, and you did not notice that none were ever deducted, as you were very busy working and trying to sell your house.
- 12) You testified that you do not know if you received the November 27, 2016 disenrollment notice, but that if you did, you may have disregarded it because you thought you already had insurance.
- 13) You testified that you did not receive the December 20, 2016 notice stating that you were eligible to purchase a QHP at full cost as of January 1, 2017.
- 14) You testified that you rarely use your health insurance and that, sometime around May or June 2017, your doctor's office called you to inform you that they had received a phone call from Fidelis saying that you did not have any insurance coverage.
- 15) You testified that you contacted NYSOH and tried to enroll in coverage, but were unable to.
- 16) Your NYSOH account reflects that you updated your NYSOH application on July 11, 2017 and tried to enroll in a plan.

17) You testified that there have not been any changes in your household, other than the fact that you moved to a new county on April 1, 2017.

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 QHP and enrollees may change QHPs (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 QHP, 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.
- (2)(i) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care, or through a child support order or other court order.

- (ii) the enrollee loses a dependent or is no longer considered a dependent through divorce or legal separation as defined by State law in the State in which the divorce or legal separation occurs, or if the enrollee, or his or her dependent, dies.
- (3) The qualified individual, or his or her dependent, becomes newly eligible for enrollment in a QHP because he or she gains citizenship, status as a national, or lawful present or is no longer incarcerated.
- (4) 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, misconduct, or inaction of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities.
- (5) The enrollee or, his or her dependent adequately demonstrates to NYSOH that the QHP in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee;
- (6) The enrollee or enrollee's dependent is newly eligible or ineligible for APTC, or has a change in eligibility for cost-sharing reductions.
- (7) The qualified individual or enrollee, or his or her dependent, gains access to a new QHP as a result of a permanent move and either—
 - (i) Had minimum essential coverage for one or more days during the 60 days preceding the date of the permanent move, or
 - (ii) Was living outside of the United States or in a United States territory at the time of the permanent move;
- (8) The qualified individual or dependent who gains or maintains status as an Indian may enroll in a QHP or change from one plan to another, once per month.
- (9) The qualified individual or enrollee, or his or her dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide;
- (10) A qualified individual or enrollee—
 - (i) Is a victim of domestic abuse or spousal abandonment, including a dependent or unmarried victim within a household, is enrolled in minimum essential coverage and seeks to enroll in coverage separate from the perpetrator of the abuse or abandonment; or

(ii) Is a dependent of a victim of domestic abuse or spousal abandonment, on the same application as the victim, may enroll in coverage at the same time as the victim;

(11) A qualified individual or dependent—

(i) Applies for coverage through NYSOH during the annual open enrollment period or due to a qualifying event, is assessed as potentially eligible for Medicaid or Child Health Plus and is determined ineligible for Medicaid or Child Health Plus either after open enrollment has ended or more than 60 days after the qualifying event; or

(ii) Applies for coverage at their Local Department of Social Services or Human Resources Administration during the annual open enrollment period, and is determined ineligible for Medicaid or Child Health Plus after open enrollment has ended;

(12) The qualified individual or enrollee, or his or her dependent, adequately demonstrates to NYSOH that a material error related to plan benefits, service area, or premium influenced the qualified individual's or enrollee's decision to purchase a QHP; or

(13) At the option of NYSOH, the qualified individual provides satisfactory documentary evidence to verify his or her eligibility for an insurance affordability program or enrollment following termination of enrollment due to a failure to verify such status within 90 days. NYSOH has not elected to adopt this subsection at this time.

(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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you do not qualify to enroll in a QHP outside of the open enrollment period, effective August 1, 2017.

NYSOH provided an open enrollment period from November 1, 2016 until January 31, 2017. On November 15, 2016, you updated your application for financial assistance, as directed in a renewal notice that you received from NYSOH dated October 8, 2016. However, because of when your renewal was

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completed, you were found newly eligible for coverage that would expire at the end of 2016. For this reason, NYSOH sent you a second renewal notice, dated November 16, 2016, informing you that you again needed to renew your application for coverage, this time by December 15, 2016.

You credibly testified that you thought you were renewing your application for 2017 coverage when you updated your account on November 15, 2016, and it was reasonable that you did not think you had to renew again the next month, even though NYSOH sent you a second renewal notice.

However, after the renewal notice was issued, you were sent a disenrollment notice on November 27, 2016 stating that your enrollment in your QHP was ending December 31, 2016, and an eligibility determination notice on December 20, 2016 stating that you were newly eligible for a full cost QHP because you had not renewed your application.

You testified that you were not sure if you received the disenrollment notice but, if you did, you may have thought it did not apply because you thought you had coverage. You further testified that you did not receive the December 20, 2016 eligibility determination notice stating that you had failed to renew. You testified, and your NYSOH account confirms, that you receive notices from NYSOH by regular mail, and no notices issued to you by NYSOH have been returned to NYSOH as undeliverable mail.

For this reason, it is deemed that you were on notice that your enrollment in your coverage was ending as of December 31, 2016, and that you would have no coverage as of January 1, 2017.

You testified that you discovered you did not have health insurance sometime around June 2017, and that you then called NYSOH and tried to re-enroll in coverage. Your NYSOH account reflects that, on July 11, 2017, you submitted an application for health insurance and requested to enroll in a QHP. On July 12, 2017, NYSOH issued a notice stating that you do not qualify to enroll in a QHP for 2017 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.

The credible evidence of record indicates that, since the open enrollment period closed on January 31, 2017, no triggering events have occurred that would qualify you for a special enrollment period. Although you did move to a new county, that would only qualify you for a special enrollment period if you a) had coverage at least one of the 60 days prior to your move and b) reported your move to NYSOH within 60 days of the move.

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You testified that you moved on April 1, 2017, which was more than 60 days after your QHP coverage ended on December 31, 2016. Additionally, you did not report this move to NYSOH until July 11, 2017, when you updated your application. As this was more than 60 days from the date of your move, you also do not meet the requirement.

Therefore, NYSOH's denial of a special enrollment period to select a health plan outside of the open enrollment period for 2017 is AFFIRMED.

Please note: NYSOH's open enrollment period for 2018 coverage began on November 1, 2017 and will run until January 31, 2018. You may update your application at any time to find out whether you are eligible for financial assistance with health insurance for 2018.

Decision

The July 12, 2017 eligibility determination, insofar as it stated that you were not eligible to enroll in a QHP outside of the 2017 open enrollment period, is AFFIRMED.

Effective Date of this Decision: November 8, 2017

How this Decision Affects Your Eligibility

You do not qualify for a special enrollment period at this time.

NYSOH's open enrollment period began on November 1, 2017. You must update your application by January 31, 2018 if you wish to find out whether you are eligible for coverage through NYSOH for 2018.

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

The July 12, 2017 eligibility determination, insofar as it stated that you were not eligible to enroll in a QHP outside of the 2017 open enrollment period, is **AFFIRMED**.

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You do not qualify for a special enrollment period at this time.

NYSOH's open enrollment period began on November 1, 2017. You must update your application by January 31, 2018 if you wish to find out whether you are eligible for coverage through NYSOH for 2018.

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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