



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

Notice of Decision

Decision Date: December 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022004

[REDACTED]

Dear [REDACTED]

On November 14, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 29, 2017 and September 19, 2017 enrollment confirmation 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: December 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022004



Issues

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

Did your qualified health plan properly reinstate your enrollment in a qualified health plan through EmblemHealth as of July 1, 2017?

Did NYSOH properly determine that your enrollment in your current qualified health plan, UnitedHealth NS plan, was effective no earlier than November 1, 2017?

Procedural History

On June 15, 2017, NY State of Health (NYSOH) received your application for financial assistance with health insurance.

On June 16, 2017, NYSOH issued a notice of eligibility redetermination stating that you were eligible to receive up to \$236.00 per month in advance payments of the premium tax credits (APTC). This eligibility was effective July 1, 2017.

Also on June 16, 2017, NYSOH issued a notice confirming your enrollment in a qualified health plan through EmblemHealth with a monthly premium responsibility of \$506.20, after your APTC of \$236.00 was applied, both effective July 1, 2017.

On July 15, 2017, NYSOH issued a disenrollment notice stating that your enrollment in a qualified health plan through EmblemHealth would end on July 1, 2017 because you did not pay your insurance bill by the payment deadline.

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On July 27, 2017, you were reinstated into your qualified health plan through EmblemHealth.

On July 29, 2017, NYSOH issued a notice confirming your enrollment in a qualified health plan with a monthly premium responsibility of \$506.20, after your APTC of \$236.00 was applied, both effective July 1, 2017.

On August 24, 2017, NYSOH received your updated qualified health plan selection.

On August 25, 2017, NYSOH issued a disenrollment notice, stating that your coverage through EmblemHealth would end on September 30, 2017.

Also on August 25, 2017, NYSOH issued an enrollment confirmation notice stating that your coverage through UnitedHealth ST plan was effective October 1, 2017.

On August 30, 2017, you spoke to NYSOH's Account Review Unit and appealed the July 29, 2017 enrollment confirmation notice insofar as it began your enrollment in a qualified health plan through EmblemHealth on July 1, 2017, and not August 1, 2017.

On September 18, 2017, NYSOH received your updated qualified health plan selection.

On September 19, 2017, NYSOH issued a disenrollment notice, stating that your enrollment with UnitedHealth ST plan would end on October 31, 2017.

Also on September 19, 2017, NYSOH issued an enrollment confirmation notice, stating that your enrollment in UnitedHealth NS plan was effective November 1, 2017.

On November 8, 2017, you had a scheduled telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. At your request, the Hearing Officer agreed to adjourn your hearing to a later date.

On November 14, 2017, you had an adjourned telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, the issue was amended to include the start date of your current UnitedHealth NS plan. 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:

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- 1) You submitted an application to NYSOH for financial assistance on June 15, 2017.
- 2) You testified, and the record reflects, that you selected a qualified health plan on June 15, 2017.
- 3) Your enrollment in the plan became effective July 1, 2017.
- 4) The record reflects that you were disenrolled from that plan effective July 1, 2017, because you did not pay your insurance bill by the payment deadline.
- 5) You testified that your first premium payment was late because you did not receive the bill. You testified that you called the health plan on July 9, 2017, and they provided you with a mailing address for the payment.
- 6) You testified that you mailed the check, and the health plan received it after the deadline. You testified that the health plan advised you that they would redirect the check toward August 2017.
- 7) The events tab in your NYSOH account states that on July 27, 2017, your health plan initiated your reinstatement into a qualified health plan, effective July 1, 2017
- 8) Incident # [REDACTED] was filed with NYSOH and states: "Consumer was disenrolled due to nonpayment due to an error with processing on the health plan's side. They disenrolled him on 7/14/17 and then reinstated him to correct the issue on 7/27/17."
- 9) You testified that you did not request a July 1, 2017 start date.
- 10) You testified that you do not want coverage in July 2017 because you were unable to use it.
- 11) You testified that you became aware that your doctor did not accept your EmblemHealth plan in August 2017, and your navigator helped you switch to a UnitedHealth plan in August 2017.
- 12) On August 24, 2017, you were disenrolled from your EmblemHealth Plan and enrolled into a UnitedHealth ST plan.
- 13) You testified that you relied on your navigator in selecting that particular UnitedHealth ST plan, because the navigator advised you that your doctor would accept it. You subsequently became aware that your doctor did not take that plan.

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14) On September 19, 2017, your navigator selected the correct UnitedHealth NS plan, with an effective date of November 1, 2017.

15) You testified that you need your current qualified health plan to begin on October 1, 2017.

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

Applicable Law and Regulations

Appealable Issues

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 45 CFR § 155.505; and (4) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

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)).

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)).

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

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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 qualified health plan properly reinstated your enrollment in a qualified health plan as of July 1, 2017.

On June 15, 2017, you updated the information in your NYSOH account and submitted a request to enroll in a qualified health plan. On June 16, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a qualified health plan, effective July 1, 2017.

On July 15, 2017, NYSOH issued a disenrollment notice, stating that your enrollment in a qualified health plan would end on July 1, 2017 because you did not pay your insurance bill by the payment deadline.

Incident # [REDACTED] states: "Consumer was disenrolled due to nonpayment due to an error with processing on the health plan's side. They disenrolled him on 7/14/17 and then reinstated him to correct the issue on 7/27/17." The events tab in your NYSOH account confirms that on July 27, 2017, your health plan initiated your reinstatement into a qualified health plan, effective July 1, 2017.

You testified that you do not want coverage in July 2017 because you were unable to use it.

An applicant has the right to appeal to NYSOH's Appeals Unit an eligibility determination or redetermination made by NYSOH, a failure by NYSOH to provide timely notice of an eligibility determination, and a denial of a request for a special enrollment period by NYSOH.

Your appeal was requested to dispute your qualified health plan's reinstatement of your coverage after a disenrollment for non-payment of premium. This issue relates to actions taken by your qualified health plan to correct a billing error, which is not an issue that the Appeals Unit of NYSOH is authorized to address. Therefore, we must DISMISS your appeal of the July 29, 2017 enrollment confirmation notice.

The second issue under review is whether NYSOH properly determined that your enrollment in your current qualified health plan, UnitedHealth NS plan, was effective no earlier than November 1, 2017.

On August 24, 2017, your navigator updated your enrollment in order to enroll you in a UnitedHealth plan, specifically the UnitedHealth ST plan. On August 25, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in the UnitedHealth ST plan effective October 1, 2017. You testified that your navigator advised you that your doctor would accept that plan, and you relied on your navigator to select and enroll you in that plan. You also testified that you subsequently became aware that your doctor did not take that specific UnitedHealth ST plan, but would accept the UnitedHealth NS plan.

The record reflects that on September 18, 2017, your navigator updated your enrollment in order to enroll you in the UnitedHealth NS plan. On September 19, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in the UnitedHealth NS plan, effective November 1, 2017.

Generally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is after the fifteenth day of a month goes into effect on the first day of the second following month. Therefore, your enrollment in the UnitedHealth NS plan would have properly taken effect on November 1, 2017. However, you credibly testified that you relied on your navigator in selecting the UnitedHealth ST plan, and your navigator incorrectly advised you that your doctor would accept that plan. Had you been provided with the correct information, you would have enrolled into the proper UnitedHealth NS plan on August 24, 2017, which would have resulted in an October 1, 2017 start date.

Therefore, NYSOH's September 19, 2017 enrollment confirmation notice is MODIFIED to state that your enrollment in the UnitedHealth NS plan is effective October 1, 2017. Your case is RETURNED to enroll you into the UnitedHealth NS plan as of October 1, 2017.

Decision

Your appeal of the July 29, 2017 enrollment confirmation notice is DISMISSED as non-appealable issue.

The September 19, 2017 enrollment confirmation notice is MODIFIED to state that your enrollment in the UnitedHealth NS plan is effective October 1, 2017.

Your case is RETURNED to enroll you into the UnitedHealth NS plan as of October 1, 2017.

Effective Date of this Decision: December 22, 2017

How this Decision Affects Your Eligibility

This does not change the start date or end date of your EmblemHealth Plan.

Your enrollment in your current UnitedHealth NS plan is now effective October 1, 2017.

If You Disagree with this Decision (Appeal Rights)

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your case was decided, the 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 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).

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 of the July 29, 2017 enrollment confirmation notice is **DISMISSED** as non-appealable issue.

This does not change the start date or end date of your EmblemHealth Plan.

The September 19, 2017 enrollment confirmation notice is **MODIFIED** to state that your enrollment in the UnitedHealth NS plan is effective October 1, 2017.

Your case is **RETURNED** to enroll you into the UnitedHealth NS plan as of October 1, 2017.

Your enrollment in your current UnitedHealth NS plan is now effective October 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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