



STATE OF NEW YORK
DEPARTMENT OF HEALTH
PO Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: January 22, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023157

[REDACTED]

Dear [REDACTED],

On December 19, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 14, 2017 enrollment 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
PO 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(b).

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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: January 22, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023157

[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 your qualified health plan coverage would be effective July 1, 2017?

Procedural History

On December 14, 2016, NYSOH issued an eligibility determination notice stating that you were no longer eligible for Medicaid; however, your Medicaid coverage would continue until June 30, 2017 because certain individuals who qualified for Medicaid get coverage for 12 continuous months from the date they were last determined eligible. This eligibility determination was effective January 1, 2017.

On June 18, 2017, NYSOH issued a disenrollment notice stating that your Medicaid coverage would end effective June 30, 2017.

On July 18, 2017, NYSOH received an update to your application for financial assistance with health insurance.

On July 19, 2017, NYSOH issued a notice stating that the income information in your application did not match information NYSOH received from state and federal data sources. You were requested to provide income documentation by July 20, 2017 for NYSOH to issue an appropriate eligibility determination notice.

On July 21, 2017, NYSOH received (1) an undated and unsigned letter from your employer, [REDACTED], stating that your employment with [REDACTED]

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████████████████████ began as of June 13, 2017 and that your pay rate \$9.75 per hour, and (2) four earnings statements issued to you by ██████ between June 22, 2017 and July 13, 2017.

On July 22, 2017, NYSOH issued a notice stating that the income documentation you provide did not confirm the information contained in your application. The notice requested that you provide additional income documentation by August 19, 2017 so that an eligibility determination could be issued.

On August 8, 2017, NYSOH received two earnings statements issue to you by SPI on July 20, 2017 and August 3, 2017.

On August 10, 2017, NYSOH issued a notice stating that the income documentation you provide did not confirm the information contained in your application. The notice requested that you provide additional income documentation by August 19, 2017 so that an eligibility determination could be issued.

On August 23, 2017, NYSOH received an update to your application for financial assistance with health insurance.

On August 24, 2017, NYSOH issued an eligibility determination notice stating that you were found eligible for an advance premium tax credit (APTC) of up to \$265.00 per month and, if you selected a silver level qualified health plan (QHP), eligible for cost-sharing reductions (CSR), effective October 1, 2017.

On September 14, 2017, NYSOH issued an enrollment notice confirming your selection of a silver-level QHP as of September 13, 2017. The notice stated that your coverage under this plan, as well as the application of APTC, would begin effective July 1, 2017.

On October 5, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your silver-level QHP insofar as you were seeking a start date of September 1, 2017, rather than July 1, 2017.

On December 19, 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) You submitted a revised application to NYSOH on August 23, 2017 to obtain coverage.

- 2) This application indicated you were seeking a special enrollment period based on having lost your Medicaid coverage and having become eligible for enrollment in a QHP as of June 30, 2017, and you became eligible to enroll in a QHP as of August 23, 2017.
- 3) Based on the information in the August 23, 2017 application, NYSOH found you eligible for an APTC of up to \$265.00 per month and, if you selected a silver-level QHP, eligible for CSR, effective October 1, 2017, and granted you a special enrollment period, until October 22, 2017, in which to enroll in a QHP.
- 4) You testified, and your account confirms, you selected a health plan online on September 13, 2017.
- 5) You testified you think you selected September 1, 2017 as your enrollment start date, since you selected your plan during September 1, 2017.
- 6) NYSOH issued an enrollment notice on September 14, 2017 confirming you were enrolled in a QHP. The notice indicated the coverage through this plan became effective July 1, 2017.
- 7) You testified you are seeking to modify the effective date of your QHP coverage to September 1, 2017 so you can receive reimbursement of the premium payments paid to the insurer for the months of July and August 2017, since you specifically avoided scheduling appointments during those dates.
- 8) You testified that you did not reach out to your insurance carrier to request a QHP coverage start date of July 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)).

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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 involuntarily loses certain health insurance coverage:
 - (a) Health insurance considered to be minimum essential coverage;
 - (b) Enrolled in any non-calendar year health insurance policy, even if they have the option to renew the expiring non-calendar year individual health insurance policy; or
 - (c) Pregnancy-related coverage; or
 - (d) Medically needy coverage.
- (2) 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, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange; or a non-Exchange entity providing enrollment assistance or conducting enrollment activities.

(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)).

Effective Date of Coverage

If a qualified individual is granted a special enrollment period due to the loss of minimal essential coverage, and selects a new plan on or before the last date of that coverage, NYSOH must ensure that the new plan is effective on the first date of the month following the date that coverage was lost. If the new plan is selected prior to the date the previous coverage ends, then the new plan may be made effective on the first date of the month following plan selection (45 CFR § 155.420(b)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your enrollment in a QHP became effective July 1, 2017.

NYSOH provided an open enrollment period from November 1, 2016 until January 31, 2017. The record indicates that you applied on July 18, 2017, which was after your Medicaid coverage had been terminated effective June 30, 2017. Therefore, you did not complete your application during the open enrollment period. However, in the July 18, 2017 application, and the subsequent application submitted on August 23, 2017, you indicated that your prior health insurance ended on June 30, 2017. Loss of minimum essential coverage is considered a triggering life event.

It was not until you submitted your subsequent application on August 23, 2017, that you were found eligible to enroll in a QHP. You were found to have qualified for a special enrollment period as of August 23, 2017, and were directed to select a health plan by October 22, 2017.

Pursuant to the regulations, when a triggering life event occurs, the qualified individual has sixty days from the date of that event to select a qualified health plan. Accordingly, you were given a special enrollment period until October 22, 2017 to select a plan, which you did on September 13, 2017. On September 14, 2017, NYSOH issued an enrollment notice stating that your enrollment in your QHP was effective as of July 1, 2017.

In accordance with the above cited regulations, when an individual loses minimum essential coverage and is found eligible for a special enrollment period, if they select a plan before their prior coverage ends, the plan can be effective on the first day of the month following the month when coverage was lost. In your case, if you had applied before June 30, 2016 – the last date of your prior health insurance coverage – your QHP coverage could have started July 1, 2017.

However, if an individual selects a plan after the day on which he or she loses essential coverage, NYSOH can make the start date of the plan on the first day of the month following the date of plan selection. Since you selected a plan on September 13, 2017, your plan should not have started any earlier than October 1, 2017. Therefore, the evidence establishes that NYSOH erred in making your enrollment effective July 1, 2017.

Accordingly, the September 14, 2017 enrollment notice stating your coverage through your QHP became effective July 1, 2017 is MODIFIED to reflect your coverage through this plan became effective October 1, 2017.

Your case is RETURNED to NYSOH to facilitate a correction of your enrollment start date in accordance with 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).

Decision

The September 14, 2017 enrollment notice stating your coverage through your QHP became effective July 1, 2017 is MODIFIED to reflect your coverage through this plan became effective October 1, 2017.

Your case is RETURNED to NYSOH to facilitate a correction of your enrollment start date in accordance with this decision.

Effective Date of this Decision: January 22, 2018

How this Decision Affects Your Eligibility

NYSOH erred in the start date of your QHP coverage.

Your coverage through your QHP became 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 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 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
PO Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The September 14, 2017 enrollment notice stating your coverage through your QHP became effective July 1, 2017 is MODIFIED to reflect your coverage through this plan became effective October 1, 2017.

Your case is RETURNED to NYSOH to facilitate a correction of your enrollment start date in accordance with this decision.

NYSOH erred in the start date of your QHP coverage.

Your coverage through your QHP became effective October 1, 2017.

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).

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:



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। यदि आपको इसका सामंजस्य करने में मदद चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा में एक निःशुल्क व्याख्याता प्रदान कर 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 एक महत्वपूर्ण दस्तावेज हो। यदि तपाईं यसको सामंजस्य गर्न मद्दत चाहिए, तब 1-855-355-5777 को नम्बरमा फोन गर्नुहोस्। हामी तपाईंको भाषामा निःशुल्क व्याख्याता प्रदान गर्न 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.

اردو (Urdu)

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.