



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

Notice of Decision

Decision Date: December 27, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023836

[REDACTED]

Dear [REDACTED],

On December 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 5, 2017 eligibility determination and disenrollment notices, and October 31, 2017 plan enrollment 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 NY State of Health 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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Issues

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

Did NY State of Health (NYSOH) properly determine that you were no longer eligible for health insurance and properly end your coverage as of September 30, 2017?

Did NY State of Health properly determine that you did not qualify to enroll in a qualified health plan (QHP) outside of the open enrollment period?

Procedural History

On June 2, 2017, NYSOH issued an eligibility determination notice stating, in relevant part, that you were conditionally eligible for a premium tax credit up to \$237.00 per month and cost-sharing reductions, effective as of July 1, 2017. The notice directed you to provide documentation to confirm your citizenship status by August 30, 2017.

On June 8, 2017, your NYSOH account was updated.

On June 9, 2017, NYSOH issued an eligibility determination notice stating, in relevant part, that you were conditionally eligible for a premium tax credit up to \$237.00 per month and cost-sharing reductions, effective as of July 1, 2017. The notice directed you to provide documentation to confirm your citizenship status by August 30, 2017.

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Also on June 9, 2017, NYSOH issued a plan enrollment notice confirming that as of June 8, 2017, you were enrolled in a QHP with an enrollment start date of July 1, 2017. The notice directed you to provide documentation to confirm your citizenship status by August 30, 2017.

On September 4, 2017, your NYSOH account was systemically updated.

On September 5, 2017, NYSOH issued an eligibility determination notice stating that you were no longer eligible for health insurance as of October 1, 2017, because you did not provide documentation to confirm your citizenship status.

Also on September 5, 2017, NYSOH issued a disenrollment notice stating that your QHP coverage would end on September 30, 2017, because you were no longer eligible for health insurance.

On October 30, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as of your QHP coverage was discontinued and you were no longer eligible for health insurance through NYSOH.

Also on October 30, 2017, your NYSOH account was updated.

On October 31, 2017, NYSOH issued a plan enrollment notice confirming that as of October 30, 2017, you did not qualify to select a health plan outside of the open enrollment period for 2017.

On December 20, 2017, you appeared at a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken and the record was developed during the hearing. The record was closed at the end of the hearing.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) According to your NYSOH account, you were enrolled in a silver-level QHP, effective as of July 1, 2017.
- 2) According to your NYSOH account, documentation to confirm your citizenship status was not submitted by the deadline of August 30, 2017.
- 3) According to your NYSOH account, you elected to receive notices from NYSOH electronically.
- 4) You testified that, on June 2, 2017, and June 9, 2017, NYSOH sent you emails stating that notices concerning your eligibility had been sent to your NYSOH account.

- 5) You testified that the emails sent by NYSOH went to the spam folder in your email account.
- 6) You testified that, in October 2017, you were picking up a prescription and were informed by the pharmacy that your insurance coverage was no longer active.
- 7) You testified that you contacted NYSOH and were informed that your insurance coverage was terminated because you did not submit documentation of your citizenship status.
- 8) You testified that your coverage should have never been terminated and you have continued to pay your monthly premiums to the health insurance company.

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

Applicable Law and Regulations

Citizenship and Immigration Status

To enroll in a qualified health plan through NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

NYSOH must verify or obtain information to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual when 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)).

Enrollment in a Qualified Health Plan

NYSOH must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan and enrollees may change qualified health plans (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 qualified health plan, 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 qualified health plan 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 qualified health plan 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 qualified health plan 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 advance payments of the premium tax credit, or change in eligibility for cost-sharing reductions.

(7) The qualified individual or enrollee, or his or her dependent, gains access to new qualified health plan 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 qualified health plan 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 qualified health plan; 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.

(45 CFR § 155.420(d)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were no longer eligible to enroll in a QHP through NYSOH and ended your coverage as of September 30, 2017.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm that their citizenship status is satisfactory. If NYSOH cannot verify an individual's citizenship status, it must

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provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency.

In the June 2, 2017 and June 9, 2017 notices, you were advised that your eligibility was only conditional, and that you needed to submit documentation to confirm your citizenship status by August 30, 2017. The record reflects that no documentation, regarding your citizenship status, was submitted to NYSOH by the deadline of August 30, 2017.

The record reflects that you elected to receive notices from NYSOH electronically. You credibly testified that on June 2, 2017, and June 9, 2017, NYSOH sent you emails to alert you that notices had been sent to your NYSOH account; however, the emails went to the spam folder in your email account.

Your testimony confirms that NYSOH did send an email to alert you that a notice had been posted to your account. The fact that the email went to your spam folder in your email account is not a sufficient basis to conclude that the communication(s) was/were not delivered. Therefore, NYSOH properly notified you of the inconsistency in your account, and that you needed to provide the requisite documentation by August 30, 2017.

If NYSOH remains unable to verify the inconsistency after the 90-day period, it must determine the applicant's eligibility based on the information available in the data sources. Because the information was still unavailable in your account, NYSOH properly determined that you were no longer eligible to remain enrolled in health coverage through NYSOH because you did not provide the information requested.

Therefore, the September 5, 2017 eligibility determination and disenrollment notices are AFFIRMED.

The second issue under review is whether NYSOH properly determined that you did not qualify to enroll in a QHP outside of the open enrollment period.

NYSOH provided an open enrollment period from November 1, 2016 until January 31, 2017. Once that annual open enrollment period ended, 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.

Generally, loss of insurance coverage deemed to be minimum essential coverage is considered a triggering life event. Based on the analysis above, however, your enrollment in your QHP ended because you did not provide adequate proof of your citizenship status by the requested deadline. The termination of coverage for failing to submit verification documentation is

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considered a voluntary act and, therefore, does not qualify as a triggering event for which NYSOH would grant a special enrollment period.

The credible evidence of record indicates that the open enrollment period closed on January 31, 2017, and no other triggering events have occurred that would qualify you for a special enrollment period. Therefore, the October 31, 2017 plan enrollment notice is AFFIRMED in relevant part.

Decision

The September 5, 2017 eligibility determination notice is AFFIRMED.

The September 5, 2017 disenrollment notice is AFFIRMED.

The October 31, 2017 plan enrollment notice is AFFIRMED.

Effective Date of this Decision: December 27, 2017

How this Decision Affects Your Eligibility

NYSOH properly determined that you were no longer eligible to enroll in a health plan and properly ended your coverage as of September 30, 2017.

You did not qualify to enroll in a QHP outside of the open enrollment period as of October 31, 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)).

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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 September 5, 2017 eligibility determination notice is AFFIRMED.

The September 5, 2017 disenrollment notice is AFFIRMED.

The October 31, 2017 plan enrollment notice is AFFIRMED.

NYSOH properly determined that you were no longer eligible to enroll in a health plan and properly ended your coverage as of September 30, 2017.

You did not qualify to enroll in a QHP outside of the open enrollment period as of October 31, 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.

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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 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.

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