



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

Notice of Decision

Decision Date: February 12, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024046

[REDACTED]

[REDACTED]

On February 6, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's October 10, 2017 disenrollment notice, October 17, 2017 eligibility determination notice and October 17, 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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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 (NYSOH) properly terminate your and your spouse's qualified health plan for non-payment of premium effective, August 31, 2017?

Did NYSOH properly determine that your and your spouse's reenrollment in a qualified health plan and the application of advance payments of the premium tax credit were effective no earlier than December 1, 2017?

Procedural History

On January 7, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a qualified health plan at full cost through NYSOH, effective February 1, 2017.

Also on January 7, 2017, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a qualified health plan with a plan enrollment start date of February 1, 2017.

On October 10, 2017, NYSOH issued a disenrollment notice stating that you and your spouse's enrollment in your qualified health plan was terminated, effective August 31, 2017, because a premium payment had not been received by the health plan by the payment deadline.

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On October 16, 2017, NYSOH received your updated application for health insurance.

On October 17, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive up to \$606.00 per month in advance payments of the premium tax credit (APTC), effective December 1, 2017. This notice directed you to confirm your health plan selection by December 15, 2017.

Also on October 17, 2017, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a qualified health plan with a plan enrollment start date of December 1, 2017.

On November 3, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you and your spouse's reenrollment in a qualified health plan was effective December 1, 2017, and not September 1, 2017 or November 1, 2017.

Findings of Fact

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

- 1) You and your spouse were enrolled in a qualified health plan for the 2017 coverage year with a monthly premium of \$698.30, effective February 1, 2017.
- 2) You testified that you paid your premiums to your qualified health plan through August 2017.
- 3) You testified that you had been paying your qualified health plan premiums using your credit card, however, in August 2017, you attempted to set-up an automatic withdrawal from your bank account. You explained that you tried to set-up your payment for September 2017 to be withdrawn from your bank account on [REDACTED] and for your payment for October 2017 to be withdrawn from your bank account on September 28, 2017.
- 4) You testified that despite multiple calls with your plan trying to figure out how to set-up automatic deductions from your bank account, for some reason the August 28, 2017 and September 28, 2017 payments never went through.
- 5) You testified that on October 2, 2017 you contacted your qualified health plan regarding payment issues. You went on to testify that at that time,

you were not advised that you had been disenrolled from your qualified health plan, and that you made a payment during that call.

- 6) You testified that the payment you made on October 2, 2017 was ultimately applied to your premium for the month of December 2017.
- 7) You and your spouse were disenrolled from your qualified health plan, effective August 31, 2017.
- 8) You testified that on October 10, 2017 you learned that you and your spouse had been disenrolled from your qualified health plan.
- 9) You testified that you contacted your qualified health plan directly on October 14, 2017, however, you called after business hours, and left a message with the plan.
- 10) You testified that you again contacted your qualified health plan on October 16, 2017 and were advised that you would need to speak to NYSOH directly regarding reinstatement in your qualified health plan. You were then transferred to NYSOH. During that phone call with NYSOH on October 16, 2017 you reenrolled yourself and your spouse into a qualified health plan.
- 11) You and your spouse's reenrollment in your qualified health plan became effective as of December 1, 2017.
- 12) You testified that you are seeking for yourself and your spouse to be reinstated into your qualified health plan as of September 1, 2017 or in the alternative as of November 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)).

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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 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 NYSOH properly terminated you and your spouse's qualified health plan for non-payment of premium effective, August 31, 2017.

On February 1, 2017 you and your spouse were enrolled in a qualified health plan for the 2017 coverage year with a monthly premium of \$698.30, effective February 1, 2017.

You testified that you paid your premiums to your qualified health plan through August 2017. However, in September 2017 and October 2017 you were late with payment as a result of trying to change your payment method.

On October 10, 2017, NYSOH issued a notice stating that you and your spouse were disenrolled from your health plan for non-payment of premium, effective August 31, 2017.

NYSOH Appeals Unit only has the authority to review issues related to the following: (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 to provide timely notice of an eligibility determination, and (4) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether you were properly terminated from your health plan for non-payment of premiums. Therefore, your appeal of the October 10, 2017 disenrollment notice is **DISMISSED** as a non-appealable issue.

The second issue under review is whether NYSOH properly determined that your and your spouse's reenrollment in a qualified health plan, as well as the application of APTC, was effective no earlier than December 1, 2017.

The record shows that on October 16, 2017 you updated the information in your NYSOH account and submitted a request to reenroll yourself and your spouse in a qualified health plan. On October 17, 2017, NYSOH issued an enrollment confirmation notice stating that you and your spouse's enrollment in your qualified health plan was effective December 1, 2017 and that APTC would be applied to your monthly premium effective December 1, 2017.

When an individual changes information in their application after the fifteenth day of any month, NYSOH will make the redetermination that results from the change effective the first day of the second following month. Additionally, 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 selected after the fifteenth day of a month goes into effect on the first day of the second following month.

As you updated your application on October 16, 2017 and selected a qualified health plan for yourself and your spouse that day, you and your spouse's eligibility and reenrollment properly began on the first day of the second month following October 16, 2017; that is, on December 1, 2017.

Therefore, NYSOH's October 17, 2017 eligibility determination notice and enrollment confirmation notice are **AFFIRMED** because they properly began you and your spouse's reenrollment in your qualified health plan as well as your advance premium tax credits on December 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).

Decision

Your appeal of the October 10, 2017 disenrollment notice is **DISMISSED**.

The October 17, 2017 eligibility determination notice is **AFFIRMED**.

The October 17, 2017 enrollment confirmation notice is **AFFIRMED**.

Effective Date of this Decision: February 12, 2018

How this Decision Affects Your Eligibility

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

You and your spouse's reenrollment in your qualified health plan and you and your spouse's eligibility for APTC properly began as of December 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

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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

Your appeal of the October 10, 2017 disenrollment notice is **DISMISSED**.

The October 17, 2017 eligibility determination notice is **AFFIRMED**.

The October 17, 2017 enrollment confirmation notice is **AFFIRMED**.

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).

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

You and your spouse's reenrollment in your qualified health plan and you and your spouse's eligibility for APTC properly began as of December 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&btumi 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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