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

Notice of Decision

Decision Date: March 1, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000025044

[redacted]

Dear [redacted],

On January 23, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's October 12, 2017 disenrollment 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 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: March 1, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000025044

[redacted]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

> Does the Appeals Unit of NYSOH have the authority to review the disenrollment of you and your spouse from your qualified health plan because of a purported failure to pay your premium by the payment deadline?

Procedural History

On December 4, 2016, NYSOH issued an eligibility determination notice stating you and your spouse were eligible to receive up to $479.00 in monthly advance payments of the premium tax credit (APTC), effective January 1, 2017.

Also on December 4, 2016, NYSOH issued an enrollment notice confirming you and your spouse were enrolled in a qualified health plan (QHP) with APTC applied, effective January 1, 2017.

On October 11, 2017, your health plan initiated termination of the QHP enrollment for you and your spouse.

On October 12, 2017, NYSOH issued a disenrollment notice stating the QHP enrollment for you and your spouse was terminated, effective July 31, 2017, because you did not pay your insurance bill by the payment deadline.

On November 4, 2017, NYSOH issued an eligibility determination notice, based on your November 3, 2017 updated application, stating you and your spouse

were eligible to receive up to $479.00 per month in APTC, effective December 1, 2017.

On November 29, 2017, you updated your application and a preliminary determination was prepared that day finding you and your spouse eligible to receive up to $652.00 in monthly APTC, effective January 1, 2018. You selected a QHP for enrollment for you and your spouse the same day.

Also on November 29, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as the reenrollment of you and your spouse in your QHP was not effective earlier than January 1, 2018.

On November 30, 2017, NYSOH issue an eligibility determination notice, based on your November 29, 2017 updated application, stating you and your spouse were eligible to receive up to $652.00 in monthly APTC, effective January 1, 2018.

Also on November 30, 2017, NYSOH issued an enrollment notice, based on your November 29, 2017 plan selection, confirming you and your spouse were enrolled in a QHP with APTC applied, effective January 1, 2018.

On January 23, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed thereafter.

Findings of Fact

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

1) According to your account, you and your spouse were enrolled in a couple's QHP for the 2017 coverage year with a monthly premium responsibility of $586.78 per month after APTC were applied.

2) According to your account, on October 11, 2017, your health plan initiated termination of the QHP enrollment for you and your spouse for failure to pay the premiums by the payment deadline.

3) According to your account, your coverage was terminated effective July 31, 2017.

4) Updated applications were submitted on behalf of you and your spouse on November 3, 2017 and November 29, 2017.

5) A QHP enrollment request was submitted on behalf of you and your spouse on November 29, 2017. That enrollment was effective January 1, 2018.

6) According to notes in your account, on November 3, 2017 you contacted NYSOH to dispute the disenrollment of you and your spouse. Additional notes dated November 29, 2017 indicate you requested an appeal insofar as the subsequent enrollment of you and your spouse became effective January 1, 2018 rather than December 1, 2017.

7) At the hearing, you testified you were no longer seeking review of the effective date of the subsequent enrollment for you and your spouse. You testified you were no longer seeking coverage for the month of December 2017.

8) You testified you were seeking reimbursement of the amount of premiums you paid to your health plan for the months of July and August 2017.

9) You testified that in 2017 your health plan had allowed you to make partial premium payments. You further testified that your health plan had advised you that you would not be disenrolled if you made your full premium payment within 90 days of the due date.

10) You testified that you made the full premium payment for the month of July 2017 on September 28, 2017. You testified that you also made a partial payment for the month of August 2017.

11) You testified you are seeking reimbursement from your health plan for the amount you paid toward your premiums for the months of July and August 2017.

12) You testified that the IRS form 1095A issued to you on January 16, 2018 shows that you were not enrolled in coverage in the months of July or August 2017, so you are due a reimbursement from your health plan for payments made in those months.

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

Applicable Law and Regulations

Valid Appeal Requests

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

Legal Analysis

The sole issue under review is whether NYSOH has the authority to review the disenrollment of you and your spouse from your qualified health plan for failure to pay your premium by the payment deadline.

According to your account, you and your spouse were enrolled in a couple's QHP for the 2017 coverage year with a monthly premium responsibility of $586.78 per month after APTC were applied. On October 11, 2017, your health plan initiated termination of that coverage for failure to pay the premium by the payment deadline. According to your account, your coverage was terminated effective July 31, 2017.

You testified that you made premium payments to the health for the months of July and August 2017 and you are seeking reimbursement of those payments based on the purported ground that you did not have coverage for those months.

Pursuant to the regulations, the 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 and your spouse were properly terminated from your health plan for non-payment of premiums. Therefore, your appeal of the October 12, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

Moreover, the Appeals Unit does not have the authority to order reimbursement of premium payments made to the health plan. However, based on your testimony that you made premium payments to the health plan for a month(s) in which you may not have been covered, your case is REFERRED to Plan Management to investigate whether you are due a reimbursement.

It is noted that, at the hearing, you testified you are no longer seeking review of the effective date of the subsequent QHP enrollment of you and your spouse, because you are no longer seeking coverage for the month of December 2017. Accordingly, this decision does not address that issue.

Decision

Your appeal of the October 12, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

Your case is REFERRED to Plan Management to investigate whether you are due a reimbursement for premium payments made for any month(s) in which you were not enrolled in coverage.

Effective Date of this Decision: March 1, 2018

How this Decision Affects Your Eligibility

The Appeals Unit will not review the October 12, 2017 disenrollment notice.

Your case is REFERRED to Plan Management to investigate whether you are due a reimbursement for premium payments made for any month(s) in which you were not enrolled in coverage.

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 a portion of 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 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

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Summary

Your appeal of the October 12, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

Your case is REFERRED to Plan Management to investigate whether you are due a reimbursement for premium payments made for any month(s) in which you were not enrolled in coverage.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[redacted]

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).

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。我们可以为您免费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 مجانًا.

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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ 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 کرم1-855-355-5777 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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