



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

Notice of Decision

Decision Date: March 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025529

[REDACTED]

Dear [REDACTED]

On February 23, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 5, 2017 disenrollment notice and the November 28, 2017 plan 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
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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Decision Date: March 23, 2018

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 properly determine that your enrollment in the Essential Plan terminated effective December 1, 2017?

Did NY State of Health properly determine that your enrollment in your silver-level qualified health plan was effective no earlier than January 1, 2018?

Procedural History

On September 21, 2017, NY State of Health (NYSOH) issued a renewal notice stating that you were automatically enrolled in the Essential Plan, effective December 1, 2017, because federal and state data sources showed that your income was in the income range for the Essential Plan.

On October 17, 2017, a plan enrollment notice was issued confirming your enrollment in an Essential Plan, effective December 1, 2017.

Also on October 17, 2017, a disenrollment notice was issued stating that your Essential Plan would end as of November 30, 2017.

On November 5, 2017, NYSOH issued an eligibility redetermination notice, based on your November 4, 2017 updated application, stating that you were eligible to receive up to \$191.00 per month in advance payments of the premium tax credits (APTC) and ineligible for cost-sharing reductions (CSR). The notice

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stated that you needed to pick a health plan. This eligibility was effective December 1, 2017.

Also on November 5, 2017, a disenrollment notice was issued stating that your Essential Plan would end, effective December 1, 2017, because you were no longer eligible to enroll in the Essential Plan.

On November 28, 2017, NYSOH issued an eligibility determination notice, based on your November 27, 2017 updated application, stating that you were eligible to receive up to \$251.00 per month in APTC and ineligible for CSR. This eligibility was effective December 1, 2017.

Also on November 28, 2017, a plan enrollment notice was issued confirming your enrollment in a silver-level qualified health plan (QHP) with a monthly premium responsibility of \$338.57, after your APTC of \$251.00 was applied, both effective January 1, 2018.

On December 8, 2017, you spoke to NYSOH's Account Review Unit and appealed the November 5, 2017 disenrollment notice and the November 28, 2017 plan enrollment notice insofar as you had no health coverage in the month of December 2017.

On February 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 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 and testimony, you were automatically enrolled in the Essential Plan, effective December 1, 2017, based on data NYSOH received from state and federal sources.
- 2) According to your NYSOH account and testimony, you received your renewal notice and updated your application for financial assistance on November 4, 2017. Based on your increased income you attested to in your application, you were found eligible for APTC and ineligible for CSR as of December 1, 2017. You did not select a QHP that day.
- 3) You testified that you received NYSOH's November 5, 2017 eligibility determination and disenrollment notices. You believe they came via email.
- 4) You further testified that you had received so many notifications, that you did not realize that you needed to pick a new health plan. You believed that

you still had coverage through the Essential Plan in December 2017, and that you were not properly notified of being disenrolled from coverage that month.

- 5) According to your NYSOH account and testimony, you next updated your application on November 27, 2018 and selected a QHP that same day. Your enrollment in your silver-level QHP became effective January 1, 2018.
- 6) You testified that you would prefer that your Essential Plan be reinstated but, if not possible, you would like your silver-level your QHP and eligibility for financial assistance to begin on December 1, 2017, because you have medical bills for the month of December 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

The effective date of coverage by a QHP 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)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your eligibility for and enrollment in the Essential Plan terminated effective December 1, 2017.

It is noted that you are only appealing your termination from your Essential Plan due to your belief that NYSOH did not properly notify you of your disenrollment.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual's projected eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

In your case, you were automatically enrolled in the Essential Plan effective December 1, 2017, based on data NYSOH received from state and federal sources.

However, you received the renewal notice and updated your application to NYSOH for financial assistance on November 4, 2017. Based on your increased income you attested to in your application, you were found eligible for APTC and ineligible for CSR as of December 1, 2017. You did not select a QHP that day.

You testified that you received NYSOH's November 5, 2017 eligibility determination and disenrollment notices. You believe they came via email. You further testified that you had received so many notifications, that you did not realize that you needed to pick a new health plan. You believed that you still had coverage through the Essential Plan in December 2017.

Since you testified that you received the November 5, 2017 notices, it is determined that NYSOH properly notified you of your updated eligibility and your disenrollment from your Essential Plan, and that you needed to select a QHP to ensure your enrollment in your health plan and eligibility for financial assistance would continue as of December 1, 2017.

Therefore, NYSOH's November 5, 2017 disenrollment notice is correct and must be AFFIRMED.

The second issue under review is whether NYSOH properly determined that your enrollment in your silver-level QHP was effective no earlier than January 1, 2018.

As stated above, you testified that you had received so many notifications, that you did not realize that you needed to pick a new health plan. You believed that you still had coverage through the Essential Plan in December 2017.

However, your failure to contact NYSOH to inquire about your coverage or to enroll in a QHP in a timely manner is not an error or mistake attributable to NYSOH, it's representatives, entities or instrumentalities.

You updated your application on November 27, 2017, and submitted a request to enroll in a qualified health plan. On November 28, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in your silver-level QHP as of January 1, 2018.

The date on which a QHP can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the first day to and including fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected after the fifteenth day of a month goes into effect on the first day of the second following month.

Since you selected a silver-level QHP for yourself on November 27, 2017, your enrollment in that plan properly took effect on the first day of the second month following November 2017; that is, on January 1, 2018.

Therefore, the November 28, 2017 plan enrollment notice stating that your enrollment in your silver-level QHP was effective January 1, 2018, is correct and must be AFFIRMED.

Decision

The November 5, 2017 disenrollment notice is AFFIRMED.

The November 28, 2017 plan enrollment notice is AFFIRMED.

Effective Date of this Decision: March 23, 2018

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

Your eligibility for the Essential Plan properly terminated effective December 1, 2017.

The effective date of your enrollment in your silver-level QHP is January 1, 2018.

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).

You did not have health insurance coverage through NYSOH for the month of December 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)).

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

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- By mail at:
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- By fax: 1-855-900-5557

Summary

The November 5, 2017 disenrollment notice is AFFIRMED.

The November 28, 2017 plan enrollment notice is AFFIRMED.

This decision does not change your eligibility.

Your eligibility for the Essential Plan properly terminated effective December 1, 2017.

The effective date of your enrollment in your silver-level QHP is January 1, 2018.

You did not have health insurance coverage through NYSOH for the month of December 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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