



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

Notice of Decision

Decision Date: February 22, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025687

[REDACTED]

[REDACTED]

On February 16, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 20, 2016 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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Decision

Decision Date: February 22, 2018

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000025687

[REDACTED]

Issues

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

Was your appeal of NYSOH's determination that your and your spouse's enrollment in your qualified health plan was effective January 1, 2017 timely?

Did NY State of Health properly determine that your and your spouse's enrollment in a qualified health plan and the application of advance payments of the premium tax credit were effective, February 1, 2017?

Procedural History

On December 13, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination stating that you and your spouse were eligible for up to \$714.00 per month in advance payments of the premium tax credit (APTC) and cost-sharing reductions if you enrolled in a silver level qualified health plan, effective January 1, 2017.

On December 20, 2016, NYSOH issued an enrollment confirmation notice, based on your plan selection on December 19, 2016, stating that you and your spouse were enrolled in your qualified health plan with a plan enrollment start date of February 1, 2016 and that your APTC would be applied to your monthly premium, effective February 1, 2017.

On December 28, 2016, a [REDACTED] was created regarding the issue of the start date of your and your spouse's qualified health plan. Notes

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within this complaint indicate that on January 23, 2017 your and your spouse's qualified health plan was backdated to start on January 1, 2017.

On December 5, 2017, [REDACTED] was created regarding your request to cancel coverage for January 2017. This complaint shows that on December 11, 2017 NYSOH denied your request.

On December 12, 2017, you spoke to NYSOH's Account Review Unit and appealed this determine insofar as you and your spouse were enrolled in a qualified health plan for January 2017.

On February 16, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your spouse also appeared and provided sworn testimony. 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) Your NYSOH account reflects that on December 19, 2016, you selected a qualified health plan for yourself and your spouse for enrollment. Your and your spouse's plan enrollment start date was February 1, 2017.
- 2) During the hearing, you gave permission for the Hearing Officer to listen to recordings of phone calls you had with NYSOH.
- 3) The record reflects that on December 28, 2016, a [REDACTED] was filed regarding the start date of you and your spouse's qualified health plan. At that time, you were requesting that your and your spouse's enrollment begin as of January 1, 2017.
- 4) The record reflects that on January 6, 2017 and January 9, 2017, you contacted NYSOH to follow-up on your request to backdate you and your spouse's enrollment in your qualified health plan to January 1, 2017.
- 5) [REDACTED] shows that on January 23, 2017, you and your spouse's qualified health plan was backdated to start on January 1, 2017, and on January 24, 2017 NYSOH placed two phone calls to you and left a voicemail with each phone call.
- 6) You testified that in late January 2017, you received a vague voicemail from NYSOH requesting that you contact NYSOH.
- 7) NYSOH has not provided recordings of the phone calls and voicemails from January 24, 2017.

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- 8) You testified that you never received a written notice that you and your spouse's qualified health plan would begin on January 1, 2017.
- 9) No notices are contained in your NYSOH account indicating that you and your spouse's qualified health plan would begin on January 1, 2017.
- 10) You testified that you did not know that you and your spouse's coverage had been backdated to begin on January 1, 2017 until your spouse was paying the premium bill in March 2017, when he realized that your premium was consistently showing as being one month behind. You further testified that on March 28, 2017 you contacted your qualified health plan to inquire regarding this discrepancy in your premium payments, at which time, your qualified health plan advised you that this was because your coverage began as of January 1, 2017, not February 1, 2017.
- 11) The record reflects that on April 10, 2017, you placed a phone call to NYSOH. A review of the recording reflects that you were calling regarding you and your spouse's coverage for January 2017. You authorized your spouse to act as your authorized representative during that call. Your spouse advised the NYSOH representative that your qualified health plan was not willing to reimburse you for bills for January 2017 so you no longer wanted to have your coverage backdated for the month of January 2017. The NYSOH representative referred you back to your qualified health plan regarding the bills.
- 12) The record reflects that on July 17, 2017, you placed a phone call to NYSOH. A review of the recording reflects that you were calling requesting that you and your spouse be disenrolled from your qualified health plan for the month of January 2017. The NYSOH representative advised you that you would need to speak with the NYSOH Account Review Unit. The NYSOH representative then transferred you to the Account Review Unit.
- 13) On December 5, 2017, a [REDACTED] was created wherein you requested to cancel your coverage for January 2017. This complaint shows resolution on December 11, 2017 at which time, NYSOH declined your request.
- 14) You testified that you are seeking for yourself and your spouse to be disenrolled from your qualified health plan for the month of January 2017 as you were unable to use your coverage for that month as your request for January 2017 was granted too late for you and your spouse to use the coverage. You further testified that you and your spouse's qualified health plan did not pay any medical bills for January 2017, including prescriptions your spouse paid for out of pocket in that month.

15) You testified that the insurance cards you received from your qualified health plan show a February 1, 2017 start date.

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) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) 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)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR § 155.520(d)(2)(i)(D)).

Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's

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eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

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)).

Notice of Decision Concerning Eligibility

NYSOH must issue a written notice of eligibility for every application unless such application has been withdrawn, the applicant has died, or the application cannot be located (42 CFR §600.330(e)).

Legal Analysis

The first issue under review is whether your appeal of NYSOH's determination that you and your spouse's enrollment in your qualified health plan was effective January 1, 2017 timely.

The record reflects that you first contacted NYSOH to file a formal appeal of NYSOH's determine that you and your spouse's enrollment in your qualified health plan was effective January 1, 2017 on December 12, 2017.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

On January 23, 2017, NYSOH backdated you and your spouse's enrollment in your qualified health plan to January 1, 2017. NYSOH never issued an enrollment confirmation notice advising you that you and your spouse's enrollment in your qualified health plan was effective January 1, 2017.

As NYSOH never issued a written notice of you and your spouse's change in enrollment start date, your appeal was timely and will be addressed.

The second issue under review is whether NYSOH properly determine that you and your spouse's enrollment in a qualified health plan was effective February 1, 2017.

The record shows that on December 19, 2016, you submitted a request to enroll yourself and your spouse in a qualified health plan. On December 20, 2016, NYSOH issued a notice of enrollment confirmation stating that your enrollment in your qualified health plan was effective February 1, 2017.

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.

Since you enrolled in a plan on December 20, 2016, your enrollment would properly begin on the first day of the second following month after December, that is February 1, 2017.

Therefore, NYSOH's December 20, 2016 enrollment confirmation notice is AFFIRMED because it properly began you and your spouse's enrollment in your qualified health plan on February 1, 2017.

On January 23, 2017, NYSOH backdated your enrollment in your qualified health plan to January 1, 2017. You have requested that this be rescinded.

NYSOH did not provide you with proper written notice of this eligibility determination, which prevented you and your spouse from being able to use your

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coverage in January 2017. Therefore, the informal resolution contained in complaint [REDACTED] is RESCINDED and the matter is RETURNED to NYSOH to disenroll you and your spouse from your qualified health plan for January 2017.

Decision

The December 20, 2016 enrollment confirmation notice is AFFIRMED.

Resolution of complaint [REDACTED] is RESCINDED.

Your case is RETURNED to NYSOH to disenroll you and your spouse from your qualified health plan for the month of January 2017.

Effective Date of this Decision: February 22, 2018

How this Decision Affects Your Eligibility

Your case is being sent back to NYSOH to disenroll you and your spouse from your qualified health plan for the month of January 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

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- 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 December 20, 2016 enrollment confirmation notice is **AFFIRMED**.

Resolution of complaint [REDACTED] is **RESCINDED**.

Your case is **RETURNED** to NYSOH to disenroll you and your spouse from your qualified health plan for the month of January 2017.

Your case is being sent back to NYSOH to disenroll you and your spouse from your qualified health plan for the month of January 2017.

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&btumi 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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