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

Notice of Decision

Decision Date: March 19, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000026155

[redacted]

Dear [redacted],

On February 23, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 16, 2017 plan 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 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
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: March 19, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000026155

[redacted]

Issue

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

> Did NY State of Health properly determine that your enrollment in a qualified health plan and the application of your advance payments of the premium tax credit terminated effective November 30, 2017?

Procedural History

According to your NY State of Health (NYSOH) account, in December 2016, you were determined eligible for up to $249.00 per month in the advanced payment of the premium tax credit (APTC) and cost-sharing reductions if you enrolled into a silver-level qualified health plan. You were enrolled into a silver-level qualified health plan (QHP), effective January 1, 2017, with the maximum amount of APTC applied to your premium as of January 1, 2017.

On October 28, 2017, NYSOH issued a notice stating that it was time for you to renew your health insurance coverage through NYSOH. This notice further stated that you qualified for up to $370.39 per month in APTC and cost-sharing reductions if you enrolled into a silver-level QHP, effective January 1, 2018. This notice directed you to select a plan for enrollment between November 16, 2017 and December 15, 2017 for the next coverage year.

On November 15, 2017, NYSOH received eight applications for financial assistance of health insurance. These applications listed various annual expected income ranging from $21,034.00 to $25,526.00. That day, eight

preliminary eligibility determinations were prepared. The first three preliminary eligibility determinations indicated that you were eligible for the Essential Plan, effective December 1, 2017 through December 31, 2017.

On November 16, 2017, NYSOH issued an eligibility determination notice, based on your final application submitted on November 15, 2017, stating that you were eligible for up to $385.00 per month in APTC and cost-sharing reductions if you enrolled into a silver-level QHP, for a limited time, both effective January 1, 2018. The notice further indicated that you needed to provide proof of income to NYSOH by February 13, 2018, in order to confirm your eligibility. The notice also stated that you needed to select a plan for enrollment in order for your coverage to begin as of January 1, 2018.

On November 17, 2017, NYSOH issued a plan disenrollment notice stating that your enrollment with your Essential Plan would end as of December 1, 2017. The notice further indicated that your coverage with your qualified health plan, including your dental plan, would end on November 30, 2017. This notice indicated that this was because you were no longer eligible to remained enrolled in your Essential Plan nor your QHP, and that you were sent a separate notice about your eligibility. This notice further stated that there was no action needed as you were enrolled into a health plan for the upcoming year and that you would receive written notification about your plan.

On December 20, 2017, you spoke to NYSOH's Account Review Unit and appealed the disenrollment of your qualified health plan with the application of your APTC for 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 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) You testified that you accessed your NYSOH account on November 15, 2017, because your qualified health plan sent you an e-mail stating that your qualified health plan was no longer available and that you needed to contact NYSOH to pick a new plan for enrollment for the upcoming year.

2) According to your NYSOH account, you submitted eight applications to NYSOH for financial assistance on November 15, 2017.

3) According to your NYSOH account, throughout these eight applications the expected annual income listed in your application ranged from $21,034.00 and $25,526.00.

4) The first three applications that were submitted included an annual expected income between $21,034.00 and $23,654.00.

5) Three preliminary determinations were prepared after these applications stating that you were eligible to enroll in an Essential Plan with $20.00 monthly premiums, effective December 1, 2017.

6) The sixth application, that was submitted on November 15, 2017, which indicated that you were looking for financial assistance for the 2017 health insurance year, listed an annual expected income of $24,684.57, consisting of $22,758.57 you earn from your employment and $2,105.00 you received in unemployment insurance benefits.

7) A preliminary determination was prepared after this application stating that you were eligible for up to $275.00 per month in APTC, effective December 1, 2017.

8) There is no indication in the record that NYSOH issued an eligibility determination notice indicating what your financial assistance eligibility would be for the month of December 2017 based on this preliminary eligibility determination.

9) The final two applications that were submitted on November 15, 2017 indicated that you were applying for financial assistance with health insurance for the 2018 year.

10) The record indicates that an eligibility determination notice was issued on November 16, 2017 which stating that you were eligible for up to $385.00 per month in APTC and cost-sharing reductions if you enrolled into a silver-level qualified health plan, both effective January 1, 2018.

11) You testified that you were under the impression that you were reenrolled into a qualified health plan, effective December 1, 2017, on November 15, 2017 before you logged out of your NYSOH account.

12) You selected a plan for enrollment on December 21, 2017, and the record indicates, that this enrollment into a qualified health plan with the application of APTC to your monthly premium was effective January 1, 2018.

13) You testified that you contacted your health plan on December 20, 2017, and you were informed that NYSOH had disenrolled you from coverage as of November 30, 2017.

14) You testified that you would like to be reenrolled in your silver-level qualified health plan with the application of your APTC for the month of December 2017, because you have unpaid medical bills from that month.

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

Applicable Law and Regulations

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 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.

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)).

Effective Date of Advance Payments of the Premium Tax Credits

When an eligibility redetermination results in a change in the amount of APTC for a part of the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made (or not 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 the overall benefit year (45 CFR § 155.330(g)).

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)). NYSOH is then required to provide timely written notice of the eligibility redetermination to the individual (45 CFR § 155.310(g)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your enrollment in your qualified health plan with application of your APTC ended effective November 30, 2017.

The record indicates that you were found eligible for $249.00 per month in APTC and cost-sharing reductions if you enrolled into a silver-level QHP, both effective January 1, 2017. You were enrolled in a silver-level QHP, effective January 1, 2017, with the maximum amount of APTC applied to your monthly premium as of January 1, 2017.

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.

On October 28, 2017, NYSOH issued an annual renewal notice in your case. This notice stated that you qualified for up to $370.39 per month in APTC to help play for your health insurance coverage and cost-sharing reductions if you enrolled into a silver-level qualified health plan, effective January 1, 2018. You were directed to select a plan between November 16, 2017 and December 15, 2017, and that your coverage would not begin until you selected a plan for enrollment.

You testified that you accessed your NYSOH account on November 15, 2017, because your qualified health plan sent you an e-mail stating that your qualified health plan was no longer available and that you needed to contact NYSOH to pick a new plan for enrollment for the upcoming year. However, the record

indicates that instead of selecting a plan, that you submitted multiple applications for financial assistance with health insurance to NYSOH.

Generally, when an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month. As a result, since you made changes to your account on November 15, 2017, any changes that were made to your account would affect your eligibility the first day of the following month after November 2017; that is, as of December 1, 2017.

On November 15, 2017, you submitted eight applications for financial assistance with health insurance; which included various expected annual income amounts. The first three applications you submitted on November 15, 2017 listed annual expected incomes ranging from $21,034.00 to $23,590.00. These applications resulted in preliminary eligibility determinations finding you eligible for the Essential Plan, and no longer eligible for APTC, effective December 1, 2017.

However, you also submitted three additional applications that day indicating that you were seeking assistance for the 2017 coverage year. Based on the fourth application you submitted on November 15, 2017 that requested coverage for 2017, NYSOH issued a preliminary eligibility determination stating that you were eligible to receive up to $275.00 per month in APTC and cost-sharing reductions if you enrolled into a silver-level qualified health plan, effective December 1, 2017.

Based on the sixth and final application, in which you requested coverage for 2018, NYSOH issued an eligibility determination notice stating that you were eligible for up to $385.00 per month in APTC and cost-sharing reductions if you enrolled into a silver-level QHP, for a limited time, both effective January 1, 2018.

When an eligibility redetermination is made by NYSOH based on updated information provided by an applicant, NYSOH is required to provide timely written notice of the eligibility redetermination. In the present case, the only written eligibility determination notice issued in response to your November 15, 2017 applications indicated what your eligibility would be as of January 1, 2018. Furthermore, there is no indication in the record that NYSOH issued a written eligibility determination notice regarding a redetermination of your eligibility for financial assistance for the month of December 2017 resulting from your November 15, 2017 application, which requested assistance for the 2017 coverage year.

Therefore, it is concluded that NYSOH did not provide you with timely notice of your eligibility redetermination for the month of December 2017. As a result, NYSOH did not properly notify you of what your eligibility redetermination for financial assistance for the month of December 2017 was, nor did they properly

notify you that you needed to reenroll into a qualified health plan for December 2017.

Since NYSOH failed to give you proper notice of your eligibility for December 2017 and failed to inform you that you needed to select a qualified health plan for re-enrollment for December 2017, the November 16, 2017 plan disenrollment notice is MODIFIED to state that your enrollment in your qualified health plan terminated effective December 31, 2017.

Your case is RETURNED to NYSOH to reinstate you in your qualified health plan with the application of $275.00 in APTC from December 1, 2017 to December 31, 2017 and to provide you with an amended 2017 Form 1095-A to reflect this correction.

Decision

The November 16, 2017 plan disenrollment notice is MODIFIED to state that your enrollment in your qualified health plan is terminated effective December 31, 2017.

Your case is RETURNED to NYSOH to reinstate you in your qualified health plan with the application of $275.00 in APTC from December 1, 2017 to December 31, 2017.

NYSOH is directed to provide you with an amended 2017 Form 1095-A to reflect this correction.

This decision has no effect on any subsequent eligibility determination or plan enrollment notices issued by NYSOH.

Effective Date of this Decision: March 19, 2018

How this Decision Affects Your Eligibility

This Decision has no effect on your eligibility for financial assistance for the 2018 coverage year.

You case is being sent back to NYSOH to re-enroll you into your qualified health plan with the application of $275.00 applied to the monthly premium for the month of December 2017. NYSOH will notify you once this has been completed, and will send you an amended 2017 Form 1095-A to reflect this correction.

You will be responsible for your portion of the premium 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

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).

- By mail at:

  NY State of Health Appeals
  P.O. Box 11729
  Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The November 16, 2017 plan disenrollment notice is MODIFIED to state that your enrollment in your qualified health plan is terminated effective December 31, 2017.

Your case is RETURNED to NYSOH to reinstate you in your qualified health plan with the application of $275.00 in APTC from December 1, 2017 to December 31, 2017.

NYSOH is directed to provide you with an amended 2017 Form 1095-A to reflect this correction.

This decision has no effect on any subsequent eligibility determination or plan enrollment notices issued by NYSOH.

This Decision has no effect on your eligibility for financial assistance for the 2018 coverage year.

You case is being sent back to NYSOH to re-enroll you into your qualified health plan with the application of $275.00 applied to the monthly premium for the month of December 2017. NYSOH will notify you once this has been completed, and will send you an amended 2017 Form 1095-A to reflect this correction.

You will be responsible for your portion of the premium 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:

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।

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).

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 तपाईलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईले बोल्ने भाषामा तपाईलाई 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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