



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: AP000000026471

[REDACTED]

Dear [REDACTED],

On March 9, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 29, 2017 eligibility determination notice and the January 3, 2018 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: March 19, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026471

[REDACTED]

Issue

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

Did NY State of Health (NYSOH) properly determine that your, your spouse's, and your [REDACTED] child's enrollment in a qualified health plan, as well as the application of advance premium tax credits, was effective February 1, 2018?

Procedural History

On November 14, 2017, you updated your household's application for financial assistance. Specifically, you indicated that you were no longer seeking coverage through NYSOH.

On November 15, 2017, NYSOH issued a notice of eligibility determination stating that your spouse and your [REDACTED] child were eligible for \$0.00 per month in advance payments of the premium tax credit (APTC), effective December 1, 2017.

Also on November 15, 2017, NYSOH issued a notice of enrollment confirmation stating that your spouse and your [REDACTED] child were enrolled in a qualified health plan with a plan enrollment start date of December 1, 2017.

On November 16, 2017, NYSOH issued a notice that it was time to renew your spouse's and your [REDACTED] child's health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether they would

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qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2017 or your spouse and your [REDACTED] child might lose their health insurance coverage and, if applicable, any financial assistance.

On November 22, 2017, NYSOH issued a disenrollment notice stating that your spouse's and your [REDACTED] child's coverage would end on December 31, 2017.

No updates were made to your account by December 15, 2017.

On December 19, 2017, NYSOH redetermined your household's eligibility for financial assistance. That day, NYSOH prepared a preliminary eligibility determination stating that your spouse and your [REDACTED] child were not eligible to enroll in health insurance through NYSOH because you did not respond to the renewal notice within the required timeframe.

On December 28, 2017, NYSOH received your updated application for health insurance. That day, NYSOH issued a preliminary eligibility determination stating that you, your spouse, and your [REDACTED] child were eligible to receive up to \$778.00 per month in APTC for a limited time, effective February 1, 2018.

Also on December 28, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it began you, your spouse's, and your [REDACTED] child's eligibility on February 1, 2018 and not January 1, 2018.

On December 29, 2017, NYSOH issued a notice of eligibility redetermination, based on the December 28, 2017 application, stating that you, your spouse, and your [REDACTED] child were eligible to receive up to \$778.00 per month in APTC for a limited time, effective February 1, 2018. This notice directed you to submit proof of your household income by March 28, 2018 in order to confirm your, your spouse's, and your [REDACTED] child's eligibility for financial assistance.

On January 2, 2018, you updated your household's application for financial assistance. Specifically, you updated your household's annual expected income.

On January 3, 2018, NYSOH issued a notice of eligibility determination, based on the January 2, 2018 application, stating that you, your spouse, and your [REDACTED] child were eligible to receive up to \$714.00 per month in APTC, effective February 1, 2018.

Also on January 3, 2018, NYSOH issued a notice of enrollment confirmation, based on your plan selection on January 2, 2018, stating that you, your spouse, and your [REDACTED] child were enrolled in a qualified health plan with a plan

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enrollment start date of February 1, 2018 and your APTC would be applied to your monthly premium starting on February 1, 2018.

On March 1, 2018, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date.

On March 9, 2018, you had an adjourned hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the hearing. 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) You testified that you submitted an application for your spouse and your [REDACTED] child on November 14, 2017. You explained that your spouse and your [REDACTED] child had lost coverage through your employer, so you were applying at that time for your spouse and your [REDACTED] child to have coverage for December 2017.
- 2) You testified, and the record reflects, that you receive all of your notices from NYSOH by electronic mail.
- 3) You testified that you had previously elected to receive all of your notices from NYSOH by regular mail. You could not recall when you changed this selection from regular mail to electronic mail.
- 4) You testified that you could not recall whether you had received any electronic alerts regarding any renewal notice in your NYSOH account telling you that you needed to update your application in order to renew your eligibility.
- 5) You testified that you tried to update your household's application for financial assistance on the last day for enrollment for January 1, 2018, that is on December 15, 2017, by going onto your on-line NYSOH account. You went on to testify that you got an error message and were unable to complete your application.
- 6) There is no indication in your NYSOH account that an application was submitted on December 15, 2017.
- 7) During the hearing, you gave permission for the Hearing Officer to listen to recordings of phone calls you had with NYSOH.

- 8) On November 14, 2017, you placed a phone call to NYSOH. A review of the recording of that phone call reflects that you were calling to submit an application for coverage for December 2017 for your spouse and your [REDACTED] child. During that phone call, the NYSOH representative advised you that you would need to contact NYSOH between November 16, 2017 and December 15, 2017 in order to enroll yourself, your spouse, and your [REDACTED] child into coverage for January 1, 2018.
- 9) On November 15, 2017, you placed a phone call to NYSOH. A review of the recording of that phone call reflects that you were calling to confirm that your spouse and your [REDACTED] child were enrolled in coverage for December 1, 2017. During that phone call, the NYSOH representative advised you that you would need to call back on November 16, 2017 in order to update your coverage for January 2018.
- 10) On December 4, 2017, you placed a phone call to NYSOH. A review of the recording of that phone call reflects that you were calling to get the contact information for your spouses and your [REDACTED] child's qualified health plan. During that phone call, you advised the NYSOH representative that you didn't want to do anything regarding your 2018 coverage at that time.
- 11) You next placed a phone call to NYSOH on December 28, 2017. A review of the recording of that phone call reflects that you were calling to update your application for 2018 coverage. You explained to the NYSOH representative that you had encountered an error message when you tried to update the application yourself on December 15, 2017.
- 12) Your NYSOH account reflects that on January 2, 2018 you selected a qualified health plan for enrollment for yourself, your spouse, and your [REDACTED] child.

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

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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.

Redetermination During a Benefit Year

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)).

Any change resulting from redeterminations during a benefit year should be made effective the first day of the month following the date of the notice of redetermination, except that redeterminations resulting from changes made after a date specified by the state, which can be no earlier than the 15th of the month, may not be made effective until the first day of the month after the month following the date of the notice of redetermination. (45 CFR § 155.330(f)(1) and (2)). New York has specified that changes made after the 15th of a given month will take effect the month after the following month.

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Electronic Notices

If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you, your spouse's, and your [REDACTED] child's enrollment in a qualified health plan, as well as the application of advance premium tax credits, was effective February 1, 2018.

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.

On November 16, 2017, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not your spouse or your [REDACTED] child would qualify for financial help with paying for your health coverage. You were asked to update the information in your account by December 15, 2017 or they might lose their health insurance or any financial assistance they were receiving.

Because there was no timely response to this notice, your spouse's and your [REDACTED] child's eligibility for financial assistance and their enrollment in a qualified health plan was terminated effective December 31, 2017.

You testified, and your NYSOH account reflects, that you elected to receive alerts regarding notices from NYSOH electronically. You testified that you did not recall whether you received an electronic alert regarding the renewal notice, which directed you to update your account because there was not enough information to renew your spouse's and your [REDACTED] child's coverage for the upcoming year. However, the credible evidence of record reflects that you were aware that you must update your household's application by December 15, 2017 in order to have coverage for January 1, 2018, as evidenced by the phone recordings from November 14, 2017, November 15, 2017, December 4, 2017, as well as your testimony.

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On December 19, 2017, NYSOH redetermined your spouse's and your [REDACTED] child's eligibility, finding your spouse and [REDACTED] child ineligible to enroll in coverage through NYSOH for failure to update their application by the deadline. NYSOH failed to issue an eligibility determination notice for your spouse and your [REDACTED] child.

The record shows that on December 28, 2017 you updated the information in your NYSOH account and on January 2, 2018 you submitted a request to enroll in a qualified health plan.

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. When an individual changes information in their application after the 15th 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 from the first day to an including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is after the fifteenth day of a month goes into effect on the first day of the second following month.

Had NYSOH issued a notice of eligibility determination notice with regard to the December 19, 2017 eligibility determination, you would have been made aware that your spouse and your [REDACTED] child were no longer eligible for health insurance through NYSOH and could have updated your application and submitted a request to enroll in a qualified health plan that day.

Had you updated your household's application on December 19, 2017 and selected a qualified health plan for enrollment that day, you, your spouse's, and your [REDACTED] child's eligibility for and enrollment in a qualified health plan would have been effective as of the first day of the second month following after December 19, 2017; that is, on February 1, 2018.

Therefore, NYSOH's December 29, 2017 eligibility determination notice and January 3, 2018 enrollment confirmation notice are AFFIRMED because they properly began you, your spouse's, and your [REDACTED] child's enrollment in your qualified health plan as well as your advance premium tax credits on February 1, 2018.

Decision

The December 29, 2017 eligibility determination notice is AFFIRMED.

The January 3, 2018 enrollment confirmation notice is AFFIRMED.

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Effective Date of this Decision: March 19, 2018

How this Decision Affects Your Eligibility

This decision does not change your, your spouse's, or your [REDACTED] child's eligibility.

Your, your spouse's, and your [REDACTED] child's enrollment in your qualified health plan and eligibility for APTC properly began as of February 1, 2018.

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

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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 29, 2017 eligibility determination notice is AFFIRMED.

The January 3, 2018 enrollment confirmation notice is AFFIRMED.

This decision does not change you, your spouse's, or your [REDACTED] child's eligibility.

You, your spouse's, and your [REDACTED] child's enrollment in your qualified health plan and eligibility for APTC properly began as of February 1, 2018.

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&etumi ama wo obi a okyer& 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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