



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

Notice of Decision

Decision Date: January 18, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027007

[REDACTED]

[REDACTED],

On January 17, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 10, 2018 eligibility determination notice and the January 10, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: January 18, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027007

[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 enrollment in a qualified health plan and the application of advance payments of the premium tax credit (APTC) were effective no earlier than February 1, 2018?

Procedural History

On September 27, 2017, NYSOH determined that you were eligible to enroll in a qualified health plan (QHP) with APTC of \$103.00 per month, effective November 1, 2017. You were subsequently enrolled in a silver-level QHP with a premium of \$353.46 per month after application of \$103.00 in APTC, with a plan enrollment start date of November 1, 2017.

On November 17, 2017, NYSOH issued a notice that it was time to renew your health insurance for the upcoming year. That notice stated that based on information from federal and state sources, NYSOH could not determine whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2017 or you might lose your health insurance coverage and any financial assistance you were currently receiving.

On November 22, 2017, NYSOH issued a disenrollment notice stating that your coverage in your silver-level QHP would end on December 31, 2017. This was because you were no longer eligible to enroll in your plan as of that date.

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

On January 9, 2018, NYSOH received your updated application for health insurance.

On January 10, 2018, NYSOH issued an eligibility redetermination notice stating that you were eligible to receive up to \$165.00 per month in APTC. This eligibility was effective February 1, 2017.

Also on January 10, 2018, NYSOH issued a notice confirming your enrollment in a silver-level QHP with a monthly premium responsibility of \$344.94, after your APTC of \$165.00 was applied, effective February 1, 2018.

Also on January 10, 2018 you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it began your financial assistance eligibility and enrollment in your silver-level QHP on February 1, 2018, and not January 1, 2018.

On January 17, 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) You testified, and the record reflects, that you receive alerts regarding notices from NYSOH by electronic mail.
- 2) You testified that you did not receive any electronic alerts regarding any renewal notice in your NYSOH account about the need to update your application to renew your eligibility.
- 3) You testified that you did not receive any electronic alert regarding the cancelation of your silver-level QHP.
- 4) You testified that you have not been able to access the email account listed in your NYSOH account for the last six months.
- 5) You testified that you thought that when your silver-level QHP started in November 2017 that it would coverage would go for a full year and you would not need to renew until November 2018.

- 6) You testified that you sent the health plan your premium payment for January 2018.
- 7) You testified that you did not know that you needed to update your NYSOH account until January 8, 2018, when the plan called you and said your coverage had been not been renewed for 2018 and they were returning your premium payment. You testified that the plan advised you to contact NYSOH to renew your coverage for 2018.
- 8) The record reflects that on January 9, 2018, NYSOH received your updated application for health insurance.
- 9) The record reflects that on January 9, 2018, NYSOH received your updated application for health insurance and were determined eligible to receive up to \$165.00 per month in APTC, effective February 1, 2018.
- 10) The record reflects that on January 9, 2018 you re-enrolled in your silver-level QHP with a plan enrollment start date of February 1, 2018.
- 11) You testified that you are presently scheduled for surgery on [REDACTED]
- 12) You testified that you are seeking reinstatement in your silver-level QHP plan as of January 1, 2018 because of the scheduled surgery.

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

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to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the 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.

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 your enrollment in your silver-level QHP and your eligibility for APTC were 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 11, 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 you 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 you might lose your health insurance coverage and any financial help you were receiving.

Because there was no timely response to this notice, your eligibility for financial assistance and your enrollment in your silver-level QHP ended effective December 31, 2017.

However, you testified and your account confirms that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the renewal notice, which directed you to update the information in your NYSOH account. You testified that you have not been able to access your email account for the last six months.

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There is no evidence in your account documenting that any email alert was sent to you regarding the renewal notice or the need to renew your application, nor is there any evidence that the notice was sent to you by regular mail.

You testified that the first you knew of the need to renew your coverage was when the health plan called you on January 8, 2018 in regard to returning the premium payment for January 2018 that they received from you. They told you that your health plan coverage had ended and that you needed to contact NYSOH to renew your coverage for the 2018 coverage year.

The Appeals Unit finds, based on your uncontradicted testimony, that NYSOH did not give you the proper notice that you needed to update your account.

You first renewed your eligibility for financial assistance through NYSOH for 2018 on January 9, 2018, and therefore we must presume that this is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

Therefore, the January 10, 2018 eligibility determination notice is MODIFIED to state that, effective January 1, 2018, you are eligible to receive up to \$165.00 in APTC per month, and the January 10, 2018 enrollment confirmation notice is MODIFIED to state that your enrollment in your silver-level QHP is effective January 1, 2018.

You will be responsible for any premium payment due to the health plan for January 2018.

Decision

The January 10, 2018 eligibility determination notice is MODIFIED to state that, effective January 1, 2018, you are eligible to receive up to \$165.00 in APTC per month.

The January 10, 2018 enrollment confirmation notice is MODIFIED to state that your enrollment in your silver-level QHP is effective January 1, 2018.

Your case is RETURNED to NYSOH to effectuate the changes listed above.

You will be responsible for any premium payment due to the health plan for January 2018.

Effective Date of this Decision: January 18, 2018

How this Decision Affects Your Eligibility

Your enrollment in your silver-level QHP, and your eligibility for APTC should have begun as of January 1, 2018.

Your case is being sent back to NYSOH to effectuate this change.

You will be responsible for any premium payment due to the health plan for January 2018.

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 your appeal 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.

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).

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 January 10, 2018 eligibility determination notice is MODIFIED to state that, effective January 1, 2018, you are eligible to receive up to \$165.00 in APTC per month.

The January 10, 2018 enrollment confirmation notice is MODIFIED to state that your enrollment in your silver-level QHP is effective January 1, 2018.

Your enrollment in your silver-level QHP, and your eligibility for APTC should have begun as of January 1, 2018.

Your case is being sent back to NYSOH to effectuate this change.

You will be responsible for any premium payment due to the health plan for January 2018.

Legal Authority

We are issuing this determination in accordance with 45 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).

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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