



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

Notice of Decision

Decision Date: April 06, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027086

[REDACTED]

[REDACTED]

On March 14, 2018, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health's October 19, 2017 disenrollment notice and January 3, 2018 eligibility determination and plan enrollment notices.

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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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 (NYSOH) properly disenroll you and your spouse from your qualified health plan, effective December 1, 2017?

Did NYSOH properly determine that your and your spouse's enrollment in a qualified health plan was effective February 1, 2018?

Procedural History

On October 19, 2017, NYSOH issued a disenrollment notice stating that only your coverage with an Essential Plan 1 would end November 30, 2017.

On November 1, 2017, NYSOH issued an eligibility determination notice, based on your October 31, 2017 application, stating that you and your spouse were eligible to receive up to \$440.00 per month in advance payments of the premium tax credit (APTC), effective December 1, 2017.

On November 8, 2017, NYSOH issued a plan enrollment notice, based on your plan selection on November 7, 2017, stating that you and your spouse were enrolled in a qualified health plan with no APTC applied, effective December 1, 2017.

On November 17, 2017, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that, based

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on information from federal and state sources, NYSOH could not make a decision about whether you and your spouse 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 the financial assistance you were currently receiving.

On November 22, 2017, NYSOH issued a disenrollment notice, stating that your and your spouse's coverage through a qualified health plan would end on December 31, 2017, because you were no longer eligible to enroll in that plan.

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

On January 2, 2018, NYSOH received your updated application for health insurance.

On January 3, 2018, NYSOH issued an eligibility redetermination notice stating that you and your spouse were eligible to receive up to \$554.00 per month in APTC, effective February 1, 2018.

Also on January 3, 2018, NYSOH issued a plan enrollment notice stating that you and your spouse's enrollment in a qualified health plan was effective February 1, 2018.

On January 11, 2018 you spoke to NYSOH's Account Review Unit and filed an appeal seeking coverage for you and your spouse for December 2017 and January 2018.

On March 14, 2018, you and your spouse appeared at 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.

On March 22, 2018, NYSOH issued a plan enrollment notice stating that you and your spouse were enrolled in a qualified health plan, effective January 1, 2018.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) Your NYSOH account indicates that you receive notices from NYSOH by regular mail.
- 2) You testified that you received a notice from NYSOH telling you that you needed to update the information in your NYSOH account, but you did not believe you were required to update your account because you had just

received an eligibility determination. You testified that you did not receive the November 22, 2017 disenrollment notice.

- 3) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 4) Your account contains an entry in the enrollment history tab, stating that your coverage through a qualified health plan started and ended on December 1, 2017, and that you and your spouse had been disenrolled as part of an early disenrollment process during annual renewal.
- 5) You testified that you did not know you needed to renew your application until your pharmacy advised you on January 1, 2018 that you did not have coverage.
- 6) You testified that you updated the information in your NYSOH account on January 2, 2018. That day you also enrolled yourself and your spouse into a qualified health plan.
- 7) Your account contains two notes entered by [REDACTED] dated March 21, 2018, which state:
 - a. "updated coverage end date, disenrolled too early."
 - b. "Backdated coverage to January, coverage issues for December prevented the January enrollment."
- 8) According to your NYSOH account, your request to backdate your and your spouse's qualified health plan coverage to January 1, 2018 was granted.
- 9) The March 22, 2018 plan enrollment notice and enrollment history tab in your account confirm that your and your spouse's enrollment in a qualified health plan began on January 1, 2018.

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

Applicable Law and Regulations

De Novo Review

NYSOH Appeals Unit must review each appeal de novo and "consider all relevant facts and evidence adduced during the appeals process" (45 CFR § 155.535(f)). "De novo review means a review of an appeal without deference to prior decisions in the case" (45 CFR § 155.500).

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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.

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

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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).

Legal Analysis

The first issue under review is whether NYSOH properly disenrolled you and your spouse from your qualified health plan, effective December 1, 2017.

You testified that you are appealing the disenrollment from your and your spouse's qualified health plan effective December 1, 2017. However, the record only contains a disenrollment notice stating your and your spouse's coverage, would end as of December 1, 2017.

Here, the lack of a notice of eligibility determination on the issue of disenrollment from your spouse's Essential Plan does not prevent the Appeals Unit from reaching the merits of the case or constitute material error. Under 45 CFR § 155.505(b), you are as entitled to appeal NYSOH failure to timely issue a notice as you are to appeal an adverse notice of eligibility determination.

Your testimony along with the enrollment history tab in your account which states that you and your spouse had been disenrolled from your qualified health plan effective December 1, 2017, as part of an early disenrollment process during annual renewal, permits an inference that NYSOH disenrolled both of you from your qualified health plan as of December 1, 2017.

Since the Appeals Unit review of NYSOH determinations is performed on a de novo basis, no deference would have been granted to the eligibility determination notice had it been issued.

On November 22, 2017, NYSOH issued a disenrollment notice, stating that your and your spouse's coverage through a qualified health plan would end on December 31, 2017, because you were no longer eligible to enroll in that plan. However, your account contains an entry in the enrollment history tab, stating that your coverage through a qualified health plan started and ended on December 1, 2017, and that you and your spouse had been disenrolled as part of an early disenrollment process during annual renewal. There is no notice confirming this, nor any indication in the record as to why you and your spouse were subject to an early disenrollment process.

Therefore, it is concluded that NYSOH improperly disenrolled you and your spouse from your qualified health plan on December 1, 2017, and you should

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have been disenrolled effective December 31, 2017, based on the November 22, 2017 disenrollment notice. It is further noted that your account contains a note stating that a representative “updated coverage end date, disenrolled too early.” Based on this note, it is reasonable to conclude that NYSOH concedes that you and your spouse were improperly disenrolled on December 1, 2017, and acted to correct the error. Therefore, your case is RETURNED to NYSOH to ensure that you and your spouse are enrolled in a qualified health plan for December 2017.

The second issue under review is whether NYSOH properly determined that your and your spouse’s enrollment in a qualified health plan 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 17, 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 and your spouse 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 the financial help you and your spouse were receiving might end.

Because there was no timely response to this notice, your and your spouse’s eligibility for financial assistance and you and your spouse’s enrollment in a qualified health plan was terminated effective December 31, 2017.

You testified that you received a notice from NYSOH telling you that you needed to update the information in your NYSOH account, but you did not believe you were required to update your account because you had just received an eligibility determination. You testified that you did not receive the November 22, 2017 disenrollment notice. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, the record reflects that NYSOH properly notified you of you and your spouse’s annual renewal for 2018, and that information in your NYSOH account needed to be updated in order to ensure you and your spouse’s enrollment in a health plan and eligibility for financial assistance would continue.

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

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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. 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.

Therefore, NYSOH's January 3, 2018 eligibility determination notice and plan enrollment notices are **AFFIRMED** because they properly began you and your spouse's enrollment in a qualified health plan on February 1, 2018.

However, it is noted for the record that your request to backdate you and your spouse coverage has been granted, as evidenced by the March 21, 2018 note in your account and subsequent March 22, 2018 plan enrollment notice which states that you and your spouse are enrolled in a qualified health plan effective January 1, 2018. That notice remains in effect and undisturbed.

Decision

NYSOH improperly disenrolled you and your spouse from your qualified health plan on December 1, 2017.

Your case is **RETURNED** to NYSOH to ensure that you and your spouse are enrolled in a qualified health plan for the month of December 2017.

The January 3, 2018 eligibility determination notice is **AFFIRMED**.

The January 3, 2018 plan enrollment notice is **AFFIRMED**.

NYSOH properly began you and your spouse's enrollment in a qualified health plan on February 1, 2018.

This Decision does not affect the approval of your request to backdate your coverage to January 1, 2018, or any subsequent notices.

Effective Date of this Decision: April 06, 2018

How this Decision Affects Your Eligibility

You and your spouse should not have been disenrolled from your qualified health plan as of December 1, 2017.

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).

Your case is being sent back to NYSOH to ensure that you and your spouse are enrolled in your qualified health plan for the month of December 2017.

You will be responsible to pay the monthly premium for December 2017, to the health plan directly.

Your enrollment in your qualified health plan, and your eligibility for APTC remain in effect as of January 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 to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

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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

NYSOH improperly disenrolled you and your spouse from your qualified health plan on November 30, 2017.

You and your spouse should not have been disenrolled from your qualified health plan as of November 30, 2017.

Your case is RETURNED to NYSOH to ensure that you and your spouse are enrolled in a qualified health plan for December 2017.

Your case is being sent back to NYSOH to ensure that you and your spouse are enrolled in your qualified health plan in December 2017.

The January 3, 2018 eligibility determination notice is AFFIRMED.

The January 3, 2018 enrollment confirmation notice is AFFIRMED.

NYSOH properly began you and your spouse's enrollment in a qualified health plan on February 1, 2018.

This Decision does not affect the approval of your request to backdate your coverage to January 1, 2018, or any subsequent notices.

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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