STATE OF NEW YORK
DEPARTMENT OF HEALTH
PO Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: April 18, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000027090

[redacted]

[redacted]

On March 14, 2018, your spouse, [redacted] (acting as your Authorized Representative), appeared by telephone at a hearing on your appeal of NY State of Health's October 22, 2017 enrollment 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
  PO 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(b).

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: April 18, 2018

NY State of Health Account ID: [redacted]
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Issue

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

Was your appeal of the October 22, 2017 enrollment timely?

Procedural History

On November 28, 2016, NYSOH received an update to your application for financial assistance with health insurance.

On November 29, 2016, NYSOH issued an eligibility determination notice stating that you, your spouse two oldest children, [redacted], were eligible for an advance premium tax credit (APTC) of up to $943.00 per month and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR), effective January 1, 2017.

On November 29, 2016, NYSOH issued an enrollment notice confirming your selection of a silver-level qualified health plan (QHP) for the coverage of you, your spouse and your two oldest children as of November 28, 2016. This notice confirming that your family's coverage would begin effective January 1, 2017, with a monthly premium of $294.54, after applying the maximum APTC of $943.00.

On October 7, 2017, NYSOH redetermined your household's eligibility for financial assistance with health insurance.

On October 22, 2017, NYSOH issued a disenrollment notice stating that your oldest child, [redacted], would be disenrolled from the silver-level plan effective November 30, 2017.

Also on October 22, 2017, NYSOH issued an enrollment notice confirming that you, your spouse and your son, [redacted], remained enrolled in the silver-level QHP as of October 21, 2017 at a premium of $539.29, after applying a revised maximum tax credit of $707.25, with such a tax credit beginning effective December 1, 2017. This notice also advised you would need to select a QHP for [redacted] coverage.

On October 28, 2017, NYSOH issued a renewal and eligibility determination notice stating that you, your spouse and your two oldest children were eligible for an APTC of up to $1,111.10 and, if you selected a silver-level plan, eligible for CSR, effective January 1, 2018.

On November 16, 2017, NYSOH redetermined your household's eligibility for financial assistance with health insurance.

Also on November 17, 2017, NYSOH issued an enrollment notice confirming that you, your spouse and [redacted] were reenrolled in the silver-level QHP as of November 16, 2017 at a premium of $621.07, after applying a revised maximum tax credit of $707.25, with such a tax credit beginning effective January 1, 2018.

On December 11, 2017, NYSOH received an update to your application for financial assistance with health insurance.

On December 12, 2017, NYSOH issued an eligibility determination notice stating that you, your spouse and your son, [redacted], were eligible for an APTC of up to $1,086.00 per month and, if your selected a silver-level plan, eligible for CSR, effective January 1, 2018. The notice also stated that you son, [redacted] was eligible for Medicaid, effective December 1, 2017.

Also on December 12, 2017, NYSOH issued an enrollment notice confirming the enrollment of you, your spouse and your son, [redacted], in a silver-level QHP, as of December 11, 2017 at a premium of $242.32, after applying a maximum APTC of $1,086.00, with such coverage and APTC application effective January 1, 2018.

On January 11, 2018, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination and enrollment confirmation notices insofar as they reduced your family's eligibility for APTC during the months of November and December 2017.

On March 14, 2018, your spouse, acting as your Authorized Representative, 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 support the following findings of fact:

1) You, your spouse and your two oldest children, [redacted], were found eligible for an APTC of up to $943.00 per month and CSR, effective January 1, 2017

2) Your oldest child, [redacted]

3) [redacted] was disenrolled from your QHP effective November 30, 2017. You testified that this was because [redacted] had aged out of the your QHP as a dependent, and would have needed to select his own plan at that point.

4) Your spouse testified that during November and December 2017, your family's APTC was reduced from $943.00 to approximately $707.25, which caused a commensurate increase in your premium cost during that month. The October 22, 2017 enrollment notice reflected this decrease in APTC, but indicated that the APTC would be applied to your monthly premium beginning on December 1, 2017.

5) Your spouse testified that you were seeking a reinstatement of your APTC of $943.00 during the months of November and December 2017.

6) Your NYSOH account reflects that you requested to appeal the reduction of your APTC level during the months of November and December on January 11, 2018.

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) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (4) 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)).

Legal Analysis

The sole issue under review is whether your appeal of the October 22, 2017 enrollment notice was timely.

On October 22, 2017, NYSOH issued an enrollment stating that you, your spouse and your son, [redacted] remained enrolled in your silver-QHP, but at an increased premium rate due to a corresponding decrease in APTC. Your spouse testified that you experienced this decrease in APTC during the months of November and December 2017.

Individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination, which may include an enrollment notice, by NYSOH.

For an appeal to have been valid on the issue of your APTC applied to your family's coverage as reflected in the October 22, 2017 enrollment notice, an appeal should have been filed by December 21, 2017. The record reflects that that your request for an appeal was first received on January 11, 2018, which is beyond the 60-day timeframe.

As such, there has been no timely appeal of the October 22, 2017 enrollment notice, and your appeal on that eligibility determination must be DISMISSED.

Furthermore, even if your appeal had been timely, since the 2017 plan year has now concluded, the proper recourse for seeking a recovery of APTC amounts you believed were due to you during the months of November and December 2017 is to reconcile those amounts when your file your 2017 tax return.

Please note, this Decision has no effect on any subsequent determination issued by NYSOH on or after October 22, 2017.

Decision

Your appeal of the October 22, 2017 enrollment notice is DISMISSED.

Effective Date of this Decision: April 18, 2018

How this Decision Affects Your Eligibility

The NYSOH Appeals Unit will not review your family's APTC eligibility during the months of November and December 2017, because there was no timely appeal of that issue.

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 case 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.
  London, KY 40750-0061

- By fax: 1-877-369-0129

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).

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
  PO Box 11729
  Albany, NY 12211
- By fax: 1-855-900-5557

Summary

Your appeal of the October 22, 2017 enrollment notice is DISMISSED.

The NYSOH Appeals Unit will not review your family's APTC eligibility during the months of November and December 2017, because there was no timely appeal of that issue.

Furthermore, even if your appeal had been timely, since the 2017 plan year has now concluded, the proper recourse for seeking a recovery of APTC amounts you believed were due to you during the months of November and December 2017 is to reconcile those amounts when your file your 2017 tax return.

Please note, this Decision has no effect on any subsequent determination issued by NYSOH on or after October 22, 2017.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

[redacted]

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