



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

Notice of Decision

Decision Date: March 22, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028075

[REDACTED]

Dear [REDACTED]

On March 19, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 27, 2017 plan enrollment and plan disenrollment 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: March 22, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028075

[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 and your spouse's enrollment in a bronze-level qualified health plan with a monthly premium responsibility of \$100.59 per month, after your advance premium tax credit (APTC) of \$841.00 was applied, was effective no earlier than February 1, 2018?

Procedural History

On December 5, 2017, you and your spouse submitted an application for financial assistance with health insurance and selected a plan for enrollment.

On December 6, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to receive up to \$841.00 per month in APTC and, if you selected a silver-level qualified health plan, eligible for cost-sharing reductions. This eligibility was effective January 1, 2018.

Also on December 6, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in an Oscar silver-level qualified health plan with a monthly premium responsibility of \$291.06, after your APTC of \$841.00 was applied, effective January 1, 2018.

On December 26, 2017, you and your spouse enrolled in a new plan.

On December 27, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in an Oscar bronze-level qualified health plan with a monthly premium

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responsibility of \$100.59 per month, after your APTC of \$841.00 was applied, effective February 1, 2018.

Also on December 27, 2017, NYSOH issued a plan disenrollment notice stating that your enrollment in an Oscar silver-level qualified health plan with a monthly premium responsibility of \$291.06, after your APTC of \$841.00 was applied, ended January 31, 2018.

On January 30, 2018, you spoke to NYSOH's Account Review Unit and appealed the plan enrollment notice insofar as it began your and enrollment in a bronze-level qualified health plan on February 1, 2018, and not January 1, 2018.

On March 19, 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) According to your NYSOH Account and your testimony, a broker with Oscar assisted you with your December 5, 2017 application, and enrolled you and your spouse into an Oscar silver-level plan that day.
- 2) You testified that you instructed the broker to enroll you and your spouse in a bronze-level plan but that the broker incorrectly enrolled you and your spouse into a silver-level plan. You further testified that as soon as you realized the error, you contacted NYSOH to correct it.
- 3) According to your NYSOH account and your testimony, you enrolled yourself and your spouse into an Oscar bronze-level plan on December 26, 2017, which did not go into effect until February 1, 2018.
- 4) According to your NYSOH account and your testimony, you and your spouse were enrolled in an Oscar silver-level plan for the month of January 2018.
- 5) You testified that you paid Oscar the higher premium amount of \$291.06, after your APTC of \$841.00 was applied, because you did not want you and your spouse to lose health insurance for that month.
- 6) You testified that you are requesting to have your enrollments in the Oscar bronze-level plan with a monthly premium responsibility of \$100.59 per month, after your APTC of \$841.00 was applied, begin January 1, 2018, because it was a financial hardship for you to pay the \$291.06 premium for

January 2018. You further testified that you are seeking a refund for the difference in the premium amounts.

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

Applicable Law and Regulations

Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health plan 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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse's enrollment in a bronze-level qualified health plan with a monthly premium responsibility of \$100.59 per month, after your APTC of \$841.00 was applied, was effective no earlier than February 1, 2018.

The day on which a qualified health plan can take effect depends on the day a person selects a plan for enrollment. A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Since you selected a qualified health plan for yourself and your spouse on December 26, 2017, ordinarily, the effective date would be the first day of the second month following December 2017; that is, on February 1, 2018.

However, the record indicates that a broker from Oscar assisted you and your spouse with your December 5, 2017 application, and enrolled you and your spouse into an Oscar silver-level plan that day. You testified that you instructed the broker to enroll you and your spouse into an Oscar bronze-level plan but that the broker incorrectly enrolled you and your spouse into an Oscar silver-level plan. You testified and your NYSOH account reflects, that you contacted NYSOH on December 26, 2017, after you realized you were both enrolled in a silver-level plan and not a bronze-level plan. You further testified, and your NYSOH account

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reflects, that you enrolled yourself and your spouse into an Oscar bronze-level plan that day, but that this change did not go into effect until February 1, 2018. You further testified that you paid your portion of the monthly premium toward the Oscar silver-level plan for January 2018, although it was a hardship to do so, because you did not want you or and your spouse to be without health insurance coverage that month.

Based on the credible evidence in the record, it is reasonable to conclude that, but for the error made by the Oscar broker on December 5, 2017, you and your spouse would have enrolled into a bronze-level plan with Oscar that day with a January 1, 2018 enrollment start date.

Therefore, the December 27, 2017 plan enrollment notice stating that your and your spouse's enrollment in your bronze-level qualified health plan with Oscar, effective February 1, 2018, is MODIFIED to reflect a January 1, 2018 start date.

The December 27, 2017 plan disenrollment notice stating that you and your spouse were disenrolled from your Oscar silver-level qualified health plan ending January 31, 2018, is rendered MOOT by the modification to the Oscar bronze-level qualified health plan enrollment start date to January 1, 2018.

Your case is RETURNED to NYSOH to enroll you and your spouse into a bronze-level qualified health plan with Oscar as of January 1, 2018, with the effect of rendering MOOT your and your spouse's enrollment in a silver-level qualified health plan with Oscar from January 1, 2018 through January 31, 2018; and is further RETURNED to Plan Management to ensure that Oscar's records reflect that you and your spouse are enrolled in a bronze-level qualified health plan with a \$100.59 monthly premium for the month of January 2018.

Decision

The December 27, 2017 plan enrollment notice is MODIFIED to reflect a January 1, 2018 start date.

Your case is RETURNED to NYSOH to enroll you and your spouse into a bronze-level qualified health plan with Oscar as of January 1, 2018, and to notify you accordingly.

The December 27, 2017 plan disenrollment notice stating that you and your spouse were disenrolled from your silver-level qualified health plan with Oscar ending January 31, 2018, is rendered MOOT by the modification to the Oscar bronze-level qualified health plan enrollment start date to January 1, 2018.

Your case is also RETURNED to NYSOH to enroll you and your spouse into a bronze-level qualified health plan with Oscar as of January 1, 2018, with the

effect of rendering MOOT your and your spouse's enrollment in a silver-level qualified health plan with Oscar from January 1, 2018 through January 31, 2018; and is further RETURNED to Plan Management to ensure that Oscar's records reflect that you and your spouse are enrolled in a bronze-level qualified health plan with a \$100.59 monthly premium for the month of January 2018.

Effective Date of this Decision: March 22, 2018

How this Decision Affects Your Eligibility

Your and your spouse's enrollment start date in a bronze-level qualified health plan with Oscar should have been effective as of January 1, 2018, but for the broker's error in enrolling you both into a silver-level qualified health plan.

Your case is being sent back to NYSOH to enroll you and your spouse into the Oscar bronze-level qualified health plan beginning January 1, 2018, which will have the effect of disenrolling your and your spouse's enrollment in a silver-level qualified health plan with Oscar from January 1, 2018 through January 31, 2018.

Your case is also being sent back to Plan Management to conduct outreach to Oscar to ensure that the premium for you and your wife for the month of January 2018 is \$100.59.

You will need to arrange with the health plan directly the credit or reimbursement of any over-payment made those months.

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 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 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
- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The December 27, 2017 plan enrollment notice is MODIFIED to reflect a January 1, 2018 start date.

Your case is RETURNED to NYSOH to enroll you and your spouse into a bronze-level qualified health plan with Oscar as of January 1, 2018, and to notify you accordingly.

The December 27, 2017 plan disenrollment notice stating that you and your spouse were disenrolled from your silver-level qualified health plan with Oscar

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ending January 31, 2018, is rendered MOOT by the modification to the Oscar bronze-level qualified health plan enrollment start date to January 1, 2018.

Your case is also RETURNED to NYSOH to enroll you and your spouse into a bronze-level qualified health plan with Oscar as of January 1, 2018, with the effect of rendering MOOT your and your spouse's enrollment in a silver-level qualified health plan with Oscar from January 1, 2018 through January 31, 2018; and is further RETURNED to Plan Management to ensure that Oscar's records reflect that you and your spouse are enrolled in a bronze-level qualified health plan with a \$100.59 monthly premium for the month of January 2018.

Your and your spouse's enrollment start date in a bronze-level qualified health plan with Oscar should have been effective as of January 1, 2018, but for the broker's error in enrolling you both into a silver-level qualified health plan.

Your case is being sent back to NYSOH to enroll you and your spouse into the Oscar bronze-level qualified health plan beginning January 1, 2018, which will have the effect of disenrolling your and your spouse's enrollment in a silver-level qualified health plan with Oscar from January 1, 2018 through January 31, 2018.

Your case is also being sent back to Plan Management to conduct outreach to Oscar to ensure that the premium for you and your wife for the month of January 2018 is \$100.59.

You will need to arrange with the health plan directly the credit or reimbursement of any over-payment made those months.

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 okyerE 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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