



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

Notice of Decision

Decision Date: May 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028125



Dear [REDACTED]

On April 27, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 22, 2017 eligibility determination and disenrollment notices, and the January 27, 2018 plan 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
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
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Decision

Decision Date: May 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028125



Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health properly determine that your eligibility for and enrollment in your bronze-level qualified health plan ended effective December 31, 2017?

Did NY State of Health properly determine that your enrollment in your Essential Plan began no earlier than March 1, 2018?

Procedural History

According to your NY State of Health (NYSOH) account, you were originally found eligible for an advance payment of the premium tax credit and enrolled in a bronze-level qualified health plan (QHP), effective April 1, 2017.

On October 28, 2017, NYSOH issued a renewal notice for the upcoming coverage period, informing you were eligible to enroll the Essential Plan with a premium of \$20.00 per month as of January 1, 2018.

At that time, NYSOH also received information from the United States Postal Service (USPS) that your address had changed, which resulted in a change of address notice being issued. The October 28, 2017 change of address notice instructed you to update your address in your NYSOH account and, if you did not, your coverage might be impacted.

On November 18, 2017, a plan enrollment notice was issued confirming your enrollment in an Essential Plan, effective January 1, 2018.

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).

Also on November 18, 2017, a disenrollment notice was issued stating that you were disenrolled from your bronze-level qualified health plan, effective December 31, 2017, because you were no longer eligible for that program.

On November 22, 2017, NYSOH issued an eligibility determination notice stating that you did not qualify for health coverage through NYSOH because you are not a resident of New York State (NYS), effective January 1, 2018. This was because the October 28, 2017 renewal notice mailed to the mailing address listed on your NYSOH account on the date of its issuance had been returned to NYSOH as undeliverable by USPS on November 20, 2017.

Also on November 22, 2017, a disenrollment notice was issued stating that your coverage with your Essential Plan would end on January 1, 2018, because you were no longer eligible to enroll in health insurance through NYSOH.

On January 26, 2018, you updated your application and confirmed your mailing address.

On January 27, 2018, NYSOH issued an eligibility determination notice, based on your January 26, 2018 updated application, stating that you were eligible to enroll in the Essential Plan with a \$20.00 per month premium, effective March 1, 2018.

Also on January 27, 2018, a plan enrollment notice was issued confirming your enrollment in an Essential Plan, effective March 1, 2018.

Also on January 27, 2018, a notice was issued confirming that you had updated your mailing address in your NYSOH account.

On January 31, 2018, you spoke to NYSOH's Account Review Unit and appealed the November 22, 2017 eligibility determination and disenrollment notices, as well as January 27, 2018 eligibility determination notice, insofar as your eligibility for and enrollment in the Essential Plan began on March 1, 2018, and not January 1, 2018.

On April 27, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to May 12, 2018, to allow you time to submit supporting documents.

As of May 12, 2018, the Appeals Unit did not receive any documents from you and none were viewable in your NYSOH account. Therefore, the record was closed that same day and this decision is based on the record as developed at the time of the hearing.

Findings of Fact

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

- 1) You testified that you did not receive any notice informing you that you were terminated from your bronze-level qualified health plan as of December 31, 2017.
- 2) You testified you were also not aware that your eligibility had been redetermined by NYSOH on October 27, 2017.
- 3) You testified you found out you had no insurance when you attempted to get [REDACTED] and had to pay out of pocket.
- 4) Three notices issued by NYSOH, including the October 28, 2017 renewal and the November 18, 2017 plan enrollment and disenrollment notices were returned to NYSOH as undeliverable on November 20, 2017, and November 29, 2017 respectively.
- 5) These notices were addressed to your [REDACTED] address and returned to NYSOH as "Return to Sender." The envelopes listed your name and a [REDACTED] address.
- 6) You testified that, when you moved from your [REDACTED] address to your [REDACTED] address in August 2017, you filled out a change of address form.
- 7) You testified that, for some reason, USPS utilized a [REDACTED] address and began forwarding mail to you at a [REDACTED] address. You believe that this change of address is the result of fraudulent activity.
- 8) You further testified that you never resided in [REDACTED] and you are a student residing in New York, formerly residing in [REDACTED].
- 9) You testified that you would submit proof that you are still a NYS resident and that there was fraud committed on your USPS account.
- 10) No proof of NYS residency and/or fraud was submitted by the May 12, 2018 deadline.
- 11) According to your NYSOH account, on January 26, 2018, you updated your application and changed your residential and mailing address to your [REDACTED] address. That day, you were found eligible for and enrolled in the Essential Plan, effective March 1, 2018.

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- 12) You testified that you want your health insurance reinstated for January 2018 and February 2018, because you are concerned about the tax implications for not having coverage in 2018.

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 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.

Advance Payment of the Premium Tax Credit

APTC are generally available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 26 CFR § 1.36B-2, 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The Essential Plan is considered minimum essential coverage. Therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

State Residency Requirement

To be eligible for enrollment in a QHP through the New York State of Health and to be eligible to receive APTC through the NYSOH, an applicant must be a resident of New York State (45 CFR § 155.305(a)(3)), (f)(1)(ii)(A).

Requirement for Individuals to Report Changes

NYSOH must require an applicant to report any change which may affect eligibility, such as citizenship status, incarceration, residency, household size, and income within 30 days of such change (45 CFR §155.330(b), 45 CFR §155.305, 42 CFR §435.403, 42 CFR §435.406, 42 CFR §425.603).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential 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); see *also* 42 CFR § 600.320). 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 first issue under review is whether NYSOH properly determined that your enrollment in your bronze-level QHP ended effective December 31, 2017.

The record reflects that, in 2017, you were determined eligible to receive APTC and enrolled in a QHP as of April 1, 2017 through December 31, 2017.

NYSOH must redetermine a qualified individual's eligibility for financial assistance once annually without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency.

According to your NYSOH account, you were sent a renewal notice and a change of address notice on October 28, 2017, indicating that, based on federal and state data sources, you were eligible for the Essential Plan as of January 1, 2018, and that you needed to update the information in your NYSOH account, including your current mailing address.

A person who is eligible for the Essential Plan is not eligible for APTC because the Essential Plan is considered minimum essential coverage by NYSOH.

Since you were eligible for the Essential Plan as of January 1, 2018, based on federal and state data sources, NYSOH properly disenrolled you from your bronze-level QHP as of December 31, 2017, as is stated in the November 18, 2017 disenrollment notice.

However, you testified that you did not receive any notice informing you that you were terminated from your bronze-level QHP as of December 31, 2017, or that your eligibility had been redetermined as of January 1, 2018. You further testified you found out you had no insurance when you attempted to get [REDACTED] and had to pay out of pocket.

The record reflects that three notices issued by NYSOH, including the October 28, 2017 renewal and the November 18, 2017 plan enrollment and disenrollment notices were returned to NYSOH as undeliverable on November 20, 2017, and November 29, 2017 respectively. These notices were addressed to your [REDACTED] [REDACTED] [REDACTED] address and returned to NYSOH as "Return to Sender." The envelopes listed your name and a [REDACTED] address.

You also testified that you moved from your [REDACTED] [REDACTED] [REDACTED] address to your [REDACTED] [REDACTED] [REDACTED] address in August 2017 and filled out a change of address form and, for some reason, the USPS utilized a [REDACTED] address and began forwarding mail to you at a [REDACTED] address. You believe that this change of address was the result of fraudulent activity. You further testified that you would provide proof of your NYS residency and of the fraudulent activity. You did not submit this proof by the required deadline.

Enrollees are required to report changes in circumstances within 30 days of that change, to allow NYSOH to act upon accordingly.

You testified that you changed your [REDACTED] residential and mailing address when you moved in August 2017. There is no record that you also notified NYSOH of your change in address at that time. According to your NYSOH

account, on January 26, 2018, you updated your application and changed your residential and mailing address to your [REDACTED] [REDACTED] [REDACTED] address. Therefore, the record reflects that you did not update your mailing address with NYSOH within the 30-day timeframe from August 2017 required by law.

Based on your duty to notify NYSOH of a change in your residential and mailing address within 30 days after you moved in August 2017, it is determined that your returned mail is not an error or mistake attributable to NYSOH, its entities or instrumentalities.

Based on these facts, it is concluded that NYSOH properly notified you of your disenrollment from your QHP effective December 31, 2017, that your eligibility was redetermined for the Essential Plan as of January 1, 2018, and that your mailing address needed to be updated to NYSOH to ensure your enrollment in your health plan and eligibility for financial assistance would continue. Therefore, the November 22, 2017 disenrollment notice is correct and must be AFFIRMED.

Following your mail being returned to NYSOH as undeliverable, on November 20, 2017, your residence within this State could not be determined although it is a prerequisite to qualifying for financial assistance through NYSOH. As a result, NYSOH issued an eligibility determination notice on November 22, 2017, stating that you were no longer eligible for financial assistance through NYSOH, and that your eligibility for the Essential Plan as of January 1, 2018, was rescinded. Since NYSOH's action was proper and supported by the record at the time, the October 28, 2017 renewal notice, insofar as it found you eligible for the Essential Plan, effective January 1, 2018, is rendered MOOT as it was superseded (replaced) by the November 22, 2017 eligibility determination notice finding you were no longer eligible for health insurance through NYSOH, which was correct when made and is AFFIRMED.

The issue is further refined as to whether NYSOH properly determined that your enrollment in your Essential Plan did not begin until March 1, 2018.

According to your NYSOH account, you updated your application for financial assistance and enrolled in an Essential Plan on January 26, 2018.

The date on which enrollment in an Essential 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 and including the 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 to the end of the month goes into effect on the first day of the second following month.

Since you first selected an Essential Plan on January 26, 2018, your enrollment in that plan properly took effect on the first day of the second month following January 2018; that is, on March 1, 2018.

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).

Therefore, the January 27, 2018 plan enrollment notice confirming that your enrollment in the Essential Plan was effective March 1, 2018, is correct and must be AFFIRMED.

Decision

The November 22, 2017 eligibility determination and disenrollment notices are AFFIRMED.

The January 27, 2018 plan enrollment notice is AFFIRMED.

Effective Date of this Decision: May 23, 2018

How this Decision Affects Your Eligibility

This Decision does not change your eligibility for or enrollment in health insurance coverage through NYSOH.

You were properly disenrolled from your bronze-level QHP as of December 31, 2017.

Your eligibility for the Essential Plan, effective January 1, 2018, was properly rescinded.

You did not have health insurance through NYSOH during the months of January 2018 and February 2018.

The effective date of enrollment in your Essential Plan is March 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.

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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.

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 November 22, 2017 eligibility determination and disenrollment notices are **AFFIRMED**.

The January 27, 2018 plan enrollment notice is **AFFIRMED**.

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This Decision does not change your eligibility or your health insurance coverage through NYSOH.

You were properly disenrolled from your bronze-level QHP as of December 31, 2017.

Your eligibility for the Essential Plan, effective January 1, 2018, was properly rescinded.

You did not have health insurance through NYSOH during the months of January 2018 and February 2018.

The effective date of enrollment in your Essential Plan is March 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 مجانًا.

বাংলা (Bengali)

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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।

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.

Twí (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.

אַײַדיש (Yiddish)

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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.