



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

Notice of Decision

Decision Date: May 16, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028454



Dear [REDACTED]

On April 5, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 15, 2017 eligibility determination 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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Decision

Decision Date: May 16, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028454



Issue

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

Did NY State of Health properly determine that you and your spouse were enrolled into a bronze-level qualified health plan at full cost, effective January 1, 2018, and not allowed to enroll in a catastrophic plan, effective as of that date?

Procedural History

On December 15, 2017, NY State of Health (NYSOH) issued an eligibility determination, based on your December 14, 2017 application, stating that you and your spouse were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2018.

Also on December 15, 2017, NYSOH issued a plan enrollment notice, based on your December 14, 2017 plan selection, confirming your and your spouse's enrollment in a bronze-level qualified health plan at full cost, effective January 1, 2018.

On January 4, 2018, fourteen pages of documentation was uploaded to your NYSOH account.

On February 5, 2018, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as you and your spouse were not able to enroll in a catastrophic plan.

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On April 5, 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) As of the date of your December 14, 2017 application, you were [REDACTED] and your spouse was [REDACTED]
- 2) On January 4, 2018, a letter from the Department of Health and Human Services (HHS), dated December 12, 2017, was uploaded to your NYSOH account. This letter states that you and your spouse were qualified for an affordability hardship exception from January 2018 through December 2018 (see Document [REDACTED])
- 3) You testified that you spoke to NYSOH on December 14, 2017, to enroll yourself and your spouse into a catastrophic plan but you were told that you and your spouse were not eligible to do so.
- 4) Your NYSOH account indicates that you and your spouse enrolled into a bronze-level qualified health plan at full cost on December 14, 2017, which became effective as of January 1, 2018.
- 5) You testified that the only reason you and your spouse enrolled into a bronze-level qualified health plan was because you and your spouse were unable to enroll into a catastrophic plan and wanted to ensure enrollment in coverage prior to the end of the open enrollment period.
- 6) You testified that you and your spouse would like to be enrolled into a catastrophic plan for the 2018 coverage year.

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

Applicable Law and Regulations

Eligibility for Enrollment in Catastrophic Health Plans

The exchange must determine an applicant eligible for enrollment in a catastrophic plan if he or she has met the requirements for enrollment in a qualified health plan, and either:

- (1) has not attained the age of 30 before the beginning of the plan year; or

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- (2) has a certification in effect in effect for the plan year that he or she is exempt from the requirement to maintain minimum essential coverage due to having suffered a hardship with respect to the capability to obtain coverage under a qualified health plan.

(42 USC § 18022(e)(2), 26 USC § 5000A(e)(5), 45 CFR § 155.305(h)(1), (2)).

Open Enrollment Period

NYSOH must provide annual open enrollment periods during which time qualified individuals may enroll in a health plan and enrollees may change health plans (45 CFR § 155.410(a)(1)). For the benefit year beginning on January 1, 2018, the national annual open enrollment period began on November 1, 2017 and extended through December 15, 2017 (45 CFR § 155.410(e)(3)). NY State extended this enrollment period through January 31, 2018 for applications processed through NYSOH

(https://www.health.ny.gov/press/releases/2017/2017-09-07_open_enrollment_dates.htm).

Special Enrollment Periods

After each open enrollment period ends, NYSOH provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a qualified health plan, and an enrollee may change their enrollment to another plan. This is generally permitted when the following triggering event occurs:

- (4) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a qualified health plan is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, misconduct, or inaction of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities.

(45 CFR § 155.420(d)(4)).

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to select a qualified health plan (45 CFR § 155.420(c)(1)).

Legal Analysis

The issue under review is whether NYSOH properly allowed you and your spouse to enroll into a bronze-level qualified health plan at full cost, effective January 1, 2018, and not a catastrophic plan.

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Your NYSOH account indicates that, on December 14, 2017, NYSOH received your and your spouse's application for financial assistance with health insurance. Subsequently, you and your spouse were found eligible to enroll in a full pay qualified health plan, effective January 1, 2018. Your and your spouse's eligibility to enroll in a qualified health plan at full cost is not in dispute and, therefore, the merits of eligibility need not be addressed within this Decision.

However, your NYSOH account further indicates that, on December 14, 2017, you and your spouse were enrolled into a bronze-level qualified health plan, effective January 1, 2018, although you both were seeking coverage in a catastrophic plan.

You testified that on December 14, 2017, you attempted to enroll yourself and your spouse into a catastrophic plan but you were told that you and your spouse were not eligible to do so. You further testified that the only reason you and your spouse enrolled into a bronze-level qualified health plan was because you and your spouse were unable to enroll into catastrophic plan and wanted to ensure enrollment in coverage prior to the open enrollment period ending. Your NYSOH account reflects that, on December 14, 2017 during open enrollment for 2018, you and your spouse selected and were enrolled in a bronze-level qualified health plan at full cost, effective January 1, 2018. You further testified that you and your spouse would like to be enrolled into a catastrophic plan for the 2018 coverage year.

Pursuant to the above cited regulations, individuals who are over 30 years of age are permitted to enroll in a catastrophic plan, provided that they are eligible to enroll in a qualified health plan and have obtained approval for an affordability hardship exemption from HHS for the plan year in which they are seeking to enroll.

As of the date of your December 14, 2017 application, you and your spouse were determined eligible to enroll in a qualified health plan as of January 1, 2018, as stated in your NYSOH account and the December 15, 2017 eligibility determination notice. Your NYSOH account reflects that you were [REDACTED] and your spouse was [REDACTED] at the time. You provided a letter from the Department of Health and Human Services (HHS), dated December 12, 2017, which stated that you and your spouse were qualified for an affordability hardship exception from January 2018 through December 2018 (see Document [REDACTED]).

As such, you and your spouse met the criteria to be permitted to enroll in a catastrophic plan for the 2018 coverage year, and NYSOH improperly disallowed you and your spouse to select and enroll into such a plan as of December 14, 2017.

Ordinarily, once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period to enroll in a health plan, or to

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change enrollment to another health plan offered in NYSOH. To qualify for a special enrollment period, a person(s) must experience a triggering event.

One such triggering event is when the qualified individual's and/or his or her dependent's, enrollment or non-enrollment in a qualified health plan is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, misconduct, or inaction of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities.

NYSOH provided an open enrollment period from November 1, 2017 through January 31, 2018. On December 14, 2017, within the open enrollment period, you attempted to enroll yourself and your spouse into a catastrophic plan with coverage commencing on January 1, 2018, which was not allowed. As has already been established above, this was improper and was in error.

To correct this error, you and your spouse are being granted a special enrollment period to enroll into a catastrophic plan through NYSOH. Since you and your spouse were originally enrolled in health coverage as of December 14, 2017, with a January 1, 2018 effective start date, you are being given two options for enrollment into a catastrophic plan, as follows.

Your case is RETURNED to NYSOH to assist you and your spouse in enrolling into a catastrophic plan, which at your option can be exercised as of December 14, 2017, which would result in a January 1, 2018 start date. In the alternative, you and your spouse may elect to change your enrollment into a catastrophic plan within 60 days from the date of this Decision.

You and your spouse are responsible for all premium payments for any months you and your spouse are enrolled into coverage.

Decision

You and your spouse are being granted a special enrollment period to enroll into a catastrophic plan through NYSOH because you both were improperly disallowed to enroll in a catastrophic plan on December 14, 2017, which was in error.

Your case is RETURNED to NYSOH to assist you and your spouse in enrolling into a catastrophic plan, which at your option can be exercised as of December 14, 2017, which would result in a January 1, 2018 start date, because your and your spouse's inability to be enrolled in a catastrophic plan was a result of an error made by NYSOH. In the alternative, you and your spouse may elect to change your enrollment into a catastrophic plan within 60 days from the date of this Decision.

Effective Date of this Decision: May 16, 2018

How this Decision Affects Your Eligibility

Your and your spouse's eligibility has not changed.

You remain eligible to enroll in a full cost qualified health plan through NYSOH.

You and your spouse are eligible to enroll into a catastrophic plan for the 2018 coverage year and your case is being sent back to NYSOH to assist you and your spouse in enrolling into a catastrophic plan.

You and your spouse are granted a special enrollment period as of December 14, 2017, if you so choose. In the alternative, you and your spouse may elect to change your enrollment into a catastrophic plan within 60 days from the date of this Decision.

You and your spouse will be responsible for all premium payments for any months you and your spouse are enrolled into coverage.

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

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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

You and your spouse are being granted a special enrollment period to enroll into a catastrophic plan through NYSOH because you both were improperly disallowed to enroll in a catastrophic plan on December 14, 2017, which was in error.

Your case is RETURNED to NYSOH to assist you and your spouse in enrolling into a catastrophic plan, which at your option can be exercised as of December 14, 2017, which would result in a January 1, 2018 start date, because your and

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your spouse's inability to be enrolled in a catastrophic plan was a result of an error made by NYSOH. In the alternative, you and your spouse may elect to change your enrollment into a catastrophic plan within 60 days from the date of this Decision.

You and your spouse are responsible for all premium payments for any months you and your spouse are enrolled into coverage.
Your and your spouse's eligibility has not changed.

You remain eligible to enroll in a full cost qualified health plan through NYSOH.

You and your spouse are eligible to enroll into a catastrophic plan for the 2018 coverage year and your case is being sent back to NYSOH to assist you and your spouse in enrolling into a catastrophic plan.

You and your spouse are granted a special enrollment period as of December 14, 2017, if you so choose. In the alternative, you and your spouse may elect to change your enrollment into a catastrophic plan within 60 days from the date of this Decision.

You and your spouse will be responsible for all premium payments for any months you and your spouse are enrolled into coverage.

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.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. y&b&tumi 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.