



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

Notice of Decision

Decision Date: April 30, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028471

[REDACTED]

[REDACTED]

On April 19, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 18, 2017 and February 2, 2018 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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Decision

Decision Date: April 30, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028471



Issues

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

Did NY State of Health (NYSOH) properly determine that you were enrolled in a qualified health plan (QHP) with an enrollment start date of January 1, 2018?

Whether you are eligible to be reimbursed for the January 2018 health insurance premium that you paid to the health insurance company?

Procedural History

On September 19, 2017, NYSOH issued a plan enrollment notice confirming that as of September 18, 2017, you were enrolled in a QHP with an enrollment start date of November 1, 2017.

On October 28, 2017, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. The notice stated that you qualified for a premium tax credit of up to \$294.88 per month, effective January 1, 2018. Further, you had been reenrolled in the same QHP that you were enrolled in during 2017.

On November 18, 2017, NYSOH issued a plan enrollment notice confirming that as of November 17, 2017, you were enrolled in a QHP with an enrollment start date of 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).

On February 2, 2018, NYSOH issued a plan enrollment notice confirming that as of February 1, 2018, you were enrolled in a QHP with an enrollment start date of January 1, 2018.

On February 5, 2018, you spoke with NYSOH's Account Review Unit and requested an appeal relative to the enrollment start date of your QHP.

On March 29, 2018, NYSOH uploaded an evidence packet for your hearing with NYSOH's Appeals Unit. The packet contains an "incident matrix," which contains descriptions and resolutions of the complaints that have been made to NYSOH (see Document [REDACTED]).

On April 19, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken and the record was fully developed during the hearing. The record was closed at the end of the proceeding.

Findings of Fact

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

- 1) According to your NYSOH account, you were enrolled in a silver-level QHP from October 1, 2017, through December 31, 2017.
- 2) According to NYSOH account, you were reenrolled in the same silver-level QHP as of January 1, 2018.
- 3) You testified that you were ill during the month of January 2018 and attempted to use your health insurance. You were told by the medical providers that your health insurance was not active and were refused treatment.
- 4) You testified that, on or around February 5, 2018, you had a three-way conversation with representatives from NYSOH and UnitedHealthcare (UHC). During that conversation, the UHC representative stated that NYSOH sent the wrong paperwork to UHC to reinstate your coverage for 2018. Therefore, you were not reenrolled in a QHP as of January 1, 2018.
- 5) On February 5, 2018, you submitted a complaint and the NYSOH representative entered the following note, stating in relevant part that, "[UHC] claims they do not have transaction for enrollment for 01/01/2018. [R]esend [REDACTED] trans# [REDACTED] that was submitted 11/18/2017" (see Document [REDACTED]).
- 6) You testified that you initially paid the January 2018 premium in December 2017; however, the payment was returned in the middle of January 2018.

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- 7) You testified that you again paid the January 2018 premium to effectuate your health insurance coverage.
- 8) You testified that you want to be reimbursed for the January 2018 premium because you did not get the benefit of the coverage.

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)).

Annual Re-enrollment into a Qualified Health Plan

If an enrollee remains eligible for enrollment in a qualified health plan as part of the annual eligibility redetermination and the plan in which they are enrolled remains available through NYSOH for renewal, such enrollee will have his or her enrollment through the qualified health plan renewed, unless an enrollee voluntarily terminates coverage (45 CFR § 155.335(j)(1)).

Special Enrollment Periods

During a special enrollment period (SEP), a qualified individual may enroll in a qualified health plan, and an enrollee may change their enrollment to another plan (45 CFR § 155.420(a)(1)).

A qualified individual's or their dependent is eligible for a SEP if their enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of NYSOH or HHS, or its instrumentalities as evaluated and determined by NYSOH; or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities (45 CFR § 155.420(d)(4)).

CMS has defined misinformation, misrepresentation, or inaction to include situations when there is a failure to enroll the consumer in a plan (Guidance for Issuers on Special Enrollment Periods for Complex Cases in after the Initial Open Enrollment Period, Affordable Exchange Guidance, Department of Health & Human Services, CMS, dated March 26, 2014, at: <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/complex-cases-SEP-3-26-2014.pdf>).

If an individual or enrollee is eligible for a SEP based on 45 CFR § 155.420(d)(4), NYSOH must ensure that the coverage is effective on an appropriate date based on the circumstances of the SEP (45 CFR § 155.420(b)(2)(iii)).

Appealable Issues

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) an eligibility determination for an exemption; (4) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) 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)).

Legal Analysis

The first issue under review is whether NYSOH properly enrolled you in a QHP with an enrollment start date of January 1, 2018.

The record reflects you were enrolled in a silver-level QHP from October 1, 2017, through December 31, 2017.

NYSOH must annually redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance. 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. If at the time of the annual renewal an enrollee

remains eligible for enrollment in a QHP and the plan in which they were enrolled in remains available, the enrollee will have their enrollment renewed.

On October 28, 2017, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that your health insurance has not changed, and that you would be reenrolled in the same QHP. Further, on November 18, 2017, NYSOH issued an enrollment notice confirming that as of November 17, 2017, you were enrolled in a QHP with an enrollment start date of January 1, 2018.

You credibly testified that you were ill during the month of January 2018 and attempted to use your health insurance. You were told by the medical providers that your health insurance was not active and were refused treatment. Further, on or around February 5, 2018, you had a three-way conversation with representatives from NYSOH and UHC. The UHC representative stated that NYSOH sent the wrong paperwork to UHC to reinstate your coverage for 2018, and were not reenrolled in a QHP as of January 1, 2018.

The record reflects that on February 5, 2018, you submitted a complaint with NYSOH, and the complaint acknowledged that the UHC representative stated that they did not receive an enrollment transaction from NYSOH to reinstate your health insurance coverage for 2018 (see Document [REDACTED]).

[REDACTED] Based on the foregoing, the insurance company was unable to effectuate your coverage because they did not receive the necessary information from NYSOH.

A special enrollment period can be granted if a qualified individual's enrollment or non-enrollment into a qualified health plan is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of NYSOH. An enrollment error includes situations when there is a failure to enroll the consumer in a plan. If an individual or enrollee is eligible for a special enrollment period, based on an enrollment error, NYSOH must ensure that the coverage is effective on an appropriate date based on the circumstances of the special enrollment period.

The record reflects that you were not properly enrolled in a QHP until after the month January 2018 was over. Further, you attempted to use your health insurance during January 2018 and was refused treatment because you were told by the medical providers that your health insurance was not active. Therefore, you were unable to use the health insurance coverage during the month of January 2018.

The November 28, 2017 and February 2, 2018 plan enrollment notices are MODIFIED to state that you were enrolled in a QHP with an enrollment start date of February 1, 2018.

The second issue under review is whether you are eligible to be reimbursed for the January 2018 health insurance premium that was paid to the health insurance company.

You testified you paid the health plan of the January 2018 premium and want to be reimbursed for that payment.

NYSOH Appeals Unit only has the authority to review issues related to the following: (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) an eligibility determination for an exemption, (4) a failure to provide timely notice of an eligibility determination and (5) a denial of a special enrollment period.

The Appeals Unit does not have the authority to review whether an individual should be reimbursed for a premium paid to a health plan. We cannot reach the merits as to whether you are entitled to be reimbursed for that payment. Therefore, your request for reimbursement for the amount paid to the health insurance company for your coverage during the month of January 2018 is DISMISSED as a non-appealable issue.

UHC may be able to help you with your request for reimbursement. If you have not already been assisted by them, please contact 1-877-856-2429.

In addition, since your issue concerns a health insurer and/or payment, reimbursement, coverage, benefits, rates and premiums, you can contact NY Department of Financial Services at their Consumer Hotline at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30 PM); or locally to (212) 480-6400; or you can file a complaint at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>

Decision

The November 28, 2017 and February 2, 2018 plan enrollment notices are MODIFIED to state that you were enrolled in a QHP with an enrollment start date of February 1, 2018.

Your request for reimbursement of the amount paid to the health insurance company for your coverage during the month of January 2018 is DISMISSED as a non-appealable issue.

Effective Date of this Decision: April 30, 2018

How this Decision Affects Your Eligibility

You were not enrolled in a QHP during the month of January 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.

If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

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).

- 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 28, 2017 and February 2, 2018 enrollment notices are MODIFIED to state that you were enrolled in a QHP with an enrollment start date of February 1, 2018.

Your request for reimbursement for the amount paid to the health insurance company for your coverage during the month of January 2018 is DISMISSED as a non-appealable issue.

You were not enrolled in a QHP during the month of January 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 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।

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 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.

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).