



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: AP000000029192

[REDACTED]

On April 24, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 28, 2017 enrollment confirmation notice and December 28, 2017 disenrollment 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: April 30, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029192

[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, your spouse's, and your child's enrollment in a bronze qualified health plan was effective February 1, 2018?

Procedural History

On January 18, 2017, NYSOH issued a notice of eligibility determination stating that you, your spouse, and your child were eligible to receive up to \$1,029.00 in advance payments of the premium tax credit (APTC) and cost-sharing reductions if you enrolled in a silver qualified health plan, effective February 1, 2017.

Also on January 18, 2017, NYSOH issued a notice confirming your, your spouse's, and your child's enrollment in a silver qualified health plan with APTC and cost-sharing reductions, effective February 1, 2017.

On October 28, 2017, NYSOH issued a renewal notice stating that you, your spouse, and your child were eligible for up to \$939.58 per month in APTC, effective January 1, 2018. This notice advised you that you, your spouse, and your child had been reenrolled in your silver qualified health plan, and that if you wanted to make a change, you must do so between November 16, 2017 and December 15, 2017 in order for any changes to be effective as of January 1, 2018.

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On November 18, 2017, NYSOH issued an enrollment confirmation notice stating that you, your spouse, and your child were enrolled in a silver qualified health plan with APTC, effective January 1, 2018.

No updates were made to your account between November 16, 2017 and December 15, 2017.

On December 27, 2017, a navigator updated your household's application for health insurance and financial assistance through NYSOH.

On December 28, 2017, NYSOH issued an eligibility determination notice stating that you, your spouse, and your child were eligible to receive up to \$912.00 per month in APTC, effective February 1, 2018.

Also on December 28, 2017, NYSOH issued an enrollment notice stating that you, your spouse, and your child were enrolled in a bronze qualified health plan, effective February 1, 2018.

Additionally, on December 28, 2017, NYSOH issued a disenrollment notice stating that your, your spouse's, and your child's enrollment with your silver qualified health plan would end on January 31, 2018.

On February 21, 2018, you spoke to NYSOH's Account Review Unit and appealed insofar as your enrollment in your bronze qualified health plan was effective February 1, 2018, and not January 1, 2018.

On April 24, 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) You testified, and the record reflects, that you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you did not receive any electronic alerts regarding any renewal notice in your NYSOH account telling you that you needed to update your application in order to renew your eligibility.
- 3) You also testified that you did not receive any electronic alerts regarding any enrollment notice in your NYSOH account telling you that your household had been reenrolled in your silver qualified health plan for 2018.

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- 4) You testified that you, your spouse, and your child were enrolled in a silver qualified health plan for 2017.
- 5) You testified that you did not know that you, your spouse, and your child had been automatically reenrolled into a silver qualified health plan for 2018 until you received a notice from your qualified health plan on or around December 18, 2017.
- 6) You testified that you contacted a navigator on or around [REDACTED] [REDACTED] regarding selecting a different health plan for 2018.
- 7) The record reflects that on December 27, 2017, NYSOH received your request to change your enrollment from a silver qualified health plan to a bronze health plan.
- 8) You testified that you are seeking enrollment in your, your spouse's, and your child's bronze qualified health plan as of January 1, 2018.
- 9) You testified that you paid your premium to your qualified health plan for each month in 2018.
- 10) You testified that your household did not use your silver qualified health plan in January 2018.
- 11) NYSOH uploaded an evidence packet to your NYSOH account. Contained within that evidence packet under the heading of "electronic notice requirement" is a three-page memorandum dated August 21, 2017. The memorandum sets forth the federal requirements regarding use of electronic communications and asserts that NYSOH is in compliance with federal regulation and guidance on the use of electronic notices. The memorandum asserts that "the electronic notification rules do not require that exchanges track and monitor consumers actual receipt of electronic notices".
- 12) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the October 24, 2017 renewal notice or the November 18, 2017 enrollment confirmation notice.

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 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.

Electronic Notices

If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your, your spouse's, and your child's enrollment in a bronze qualified health plan was effective February 1, 2018.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. 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.

On October 24, 2017, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH had determined that you, your spouse, and your child were eligible for up to \$939.58 per month in APTC, effective January 1, 2018, and had reenrolled you, your spouse, and your child in your silver qualified health plan effective January 1, 2018. This notice advised you that you needed to make changes between November 16, 2017 and December 15, 2017 in order for those changes to be effective January 1, 2018.

On November 18, 2017, NYSOH issued an enrollment confirmation notice stating that you, your spouse, and your child had been reenrolled in your silver qualified health plan, effective January 1, 2018.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. Although NYSOH contends that it complied with federal mandates regarding electronic notices, there is no evidence in the file that NYSOH sent you an electronic alert notifying you of a new notice available in your account on October 24, 2017 or November 18, 2017. You credibly testified that you did not receive an electronic alert regarding the renewal notice, which advised you that you, your spouse, and your child had been reenrolled into your silver qualified health plan for January 1, 2018 and that you must make any changes between November 16, 2017 and December 15, 2017. You also credibly testified that you did not receive an electronic alert regarding the enrollment confirmation notice, which advised you that you, your spouse, and your child had been reenrolled into your silver level qualified health plan effective January 1, 2018. There is also no evidence in your account documenting that any email alert was sent to you regarding the notice, that any such electronic alert failed, or that the notice was later sent to you by regular mail.

NYSOH is required to send applicants proper notice in order for applicants to take appropriate action. Since there is no evidence that NYSOH sent you an email alert, and you testified that you did not receive one, there is insufficient evidence in the record that NYSOH provided you with proper notice by electronic means that you, your spouse, and your child had been automatically reenrolled into your silver qualified health plan for 2018 and that you needed to update your NYSOH account between November 16, 2017 and December 15, 2017 in order to ensure that any changes were effective January 1, 2018.

You selected a bronze qualified health plan on December 27, 2017, and therefore we must assume that this is the plan that you would have selected had you been timely informed of the need to update your account, as stated in the renewal notice.

Therefore, the December 28, 2017 enrollment confirmation notice is MODIFIED to state that your, your spouse's, and your child's enrollment in your bronze

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qualified health plan is effective January 1, 2018 and the December 28, 2017 disenrollment notice is MODIFIED to state that your, your spouse's, and your child's enrollment in your silver qualified health plan ended effective January 1, 2018.

Your case is RETURNED to NYSOH to begin your, your spouse's, and your child's enrollment into your bronze qualified health plan as of January 1, 2018.

Decision

The December 28, 2017 enrollment confirmation notice is MODIFIED to state that your, your spouse's, and your child's enrollment in your bronze qualified health plan is effective January 1, 2018.

The December 28, 2017 disenrollment notice is MODIFIED to state that your, your spouse's, and your child's enrollment in your silver qualified health plan ended effective January 1, 2018.

Your case is RETURNED to NYSOH to begin your, your spouse's, and your child's enrollment into your bronze qualified health plan as of January 1, 2018.

Effective Date of this Decision: April 30, 2018

How this Decision Affects Your Eligibility

Your, your spouse's, and your child's enrollment in your bronze qualified health plan should have begun as of January 1, 2018.

Your case is being sent back to NYSOH to begin your, your spouse's, and your child's enrollment in your bronze qualified health plan as of January 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):

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- 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 28, 2017 enrollment confirmation notice is MODIFIED to state that your, your spouse's, and your child's enrollment in your bronze qualified health plan is effective January 1, 2018.

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The December 28, 2017 disenrollment notice is MODIFIED to state that your, your spouse's, and your child's enrollment in your silver qualified health plan ended effective January 1, 2018.

Your case is RETURNED to NYSOH to begin your, your spouse's, and your child's enrollment into your bronze qualified health plan as of January 1, 2018.

Your, your spouse's, and your child's enrollment in your bronze qualified health plan should have begun as of January 1, 2018.

Your case is being sent back to NYSOH to begin your, your spouse's, and your child's enrollment in your bronze qualified health plan as of January 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 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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