



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

Notice of Decision

Decision Date: May 4, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029436



Dear [REDACTED]

On April 20, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 21, 2017 disenrollment and February 28, 2018 eligibility determination 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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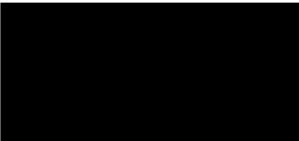


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Issues

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

Did NY State of Health properly terminate your qualified health plan for non-payment of premium, effective January 1, 2018?

Did NY State of Health properly determine that you do not qualify to enroll in a qualified health plan outside of the open enrollment period, effective April 1, 2018?

Procedural History

On December 17, 2016, NY State of Health (NYSOH) issued an eligibility determination notice stating that you were eligible for a tax credit of up to \$414.00 per month, effective January 1, 2017.

On April 4, 2017, a plan enrollment notice was issued confirming that you were enrolled in a qualified health plan (QHP) with a premium of \$246.95 per month, effective May 1, 2017. The notice stated that you must pay the monthly premium to start and keep your coverage.

On October 28, 2017, NYSOH issued a renewal notice stating that you were eligible for an advanced payment of the premium tax credit of up to \$308.15 per month, effective January 1, 2018.

On November 18, 2017, a plan enrollment notice was issued confirming that you were enrolled in a QHP with a premium of \$286.95 per month, effective January 1, 2018.

On November 21, 2017, a disenrollment notice stating that your enrollment in your QHP was terminated, effective January 1, 2018, because you did not pay your insurance bill by the payment deadline.

On February 27, 2018, you updated your application for health insurance. That day, a preliminary eligibility determination was made finding in part that you did not qualify to enroll in a health plan outside of the open enrollment period.

Also on February 27, 2018, you spoke to NYSOH's Account Review Unit and appealed that preliminary eligibility determination insofar as you were not eligible to enroll in a health plan outside of the open enrollment period.

On February 28, 2018, NYSOH issued an eligibility determination notice, consistent with the preliminary eligibility determination, stating that you did not qualify to select a health plan outside of the open enrollment period for 2018.

On April 20, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed that day.

Findings of Fact

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

- 1) You testified that while you were making regular premium payments to your health plan in 2017, you were late a few times. In late December 2017, you made a large payment that you believed caught you up. You later found out this payment was applied to your November 2017 premium and that you were disenrolled from that health plan for non-payment in December 2017.
- 2) According to your NYSOH account, you were disenrolled from your QHP for non-payment of premium, effective January 1, 2018.
- 3) You testified you did not realize that your insurance coverage was cancelled because you had discussed your payment with your health plan in December 2017. You further testified that, after making your payment, you were told by the representatives from your health plan that you were all set and that there was nothing else to do.

- 4) According to your NYSOH account and testimony, you attempted to re-enroll in a QHP on February 19, 2018 and February 27, 2018, but were unable to do so.
- 5) You testified that, since the updated your application on October 27, 2017, there have been no other major changes to your household.

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

Applicable Law and Regulations

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

Enrollment in a Qualified Health Plan

NYSOH must provide annual open enrollment periods during which time qualified individuals may enroll in a QHP and enrollees may change QHPs (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 QHP, and an enrollee may change their enrollment to another plan. This is generally permitted when a triggering event occurs, such as:

- (1) The qualified individual or his or her dependent either:

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- (i) Loses minimum essential coverage.
- (ii) Is enrolled in any non-calendar year group health plan or individual health insurance coverage, even if the qualified individual or his or her dependent has the option to renew such coverage.
- (iii) Loses pregnancy-related coverage.
- (iv) Loses medically needy coverage as described under section 1902(a)(10)(C) of the Social Security Act only once per calendar year.

(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 QHP (45 CFR § 155.420(c)(1)).

However, a loss of health insurance coverage such as that referenced above does not include,

“voluntary termination of coverage or other loss due to—

- (1) Failure to pay premiums on a timely basis, including COBRA premiums prior to expiration of COBRA coverage, or
- (2) Situations allowing for a rescission as specified in 45 CFR [§] 147.128” such as failure to comply with other requirements.

(45 CFR § 147.128(b))

Legal Analysis

The first issue under review is whether NYSOH properly terminated your QHP for non-payment of premium effective, January 1, 2018.

On April 4, 2017, you were enrolled in a QHP for the 2017 coverage year with a monthly premium of \$246.95, effective May 1, 2017.

You testified that while you were making regular premium payments to your health plan in 2017, you were late a few times. In late December 2017, you made a large payment that you believed caught you up. You later found out this payment was applied to your November 2017 premium and that you were disenrolled from that health plan for non-payment in December 2017.

On November 21, 2017, NYSOH issued a notice stating that you were disenrolled from your health plan for non-payment of the premium, effective January 1, 2018.

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) a failure to provide timely notice of an eligibility determination, and (4) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether you were properly terminated from your health plan for non-payment of premiums. Therefore, your appeal of the February 28, 2018 disenrollment notice is DISMISSED as a non-appealable issue.

The second issue under review is whether NYSOH properly determined that you did not qualify to enroll in a QHP, effective April 1, 2018.

NYSOH provided an open enrollment period from November 1, 2017 until January 31, 2018. On February 19, 2018 and February 28, 2018, you submitted requests to reenroll in your in a QHP.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period to enroll in, or change to another health plan offered in NYSOH. To qualify for a special enrollment period, a person must experience a triggering event.

In the present case, there is no evidence in the record to establish grounds for a special enrollment period.

Though you did lose health coverage because of the January 1, 2018 disenrollment, the loss of health insurance coverage in this case cannot be considered a triggering event for a special enrollment period, because it was a result of non-payment of your premiums. NYSOH considers non-payment of premiums to be a voluntary action, which in turn caused your coverage to be terminated. As such, a special enrollment period cannot be granted on this basis.

You testified that there have been no changes to your household since the updated your application on October 27, 2017. As such, the credible evidence of record indicates that, since the open enrollment period closed on January 31, 2018, you did not experience a triggering event that would qualify you for a special enrollment period as of the date of the hearing.

Therefore, the February 28, 2018 eligibility determination notice, to the extent it denied you a special enrollment period, was correct and is **AFFIRMED**.

Lastly, the Appeals Unit does not have jurisdiction over your concern regarding premium payments made to your health plan. However, you may contact your health plan directly or for other health care coverage questions, or to file a complaint against any insurance company, you can contact the Consumer Assistance Unit with the NYS Department of Financial Services at 1-212-480-6400.

Decision

Your appeal of the February 28, 2018 disenrollment notice is **DISMISSED** as a non-appealable issue.

The February 28, 2018 eligibility determination notice is **AFFIRMED**.

Effective Date of this Decision: May 4, 2018

How this Decision Affects Your Eligibility

You did not qualify for a special enrollment period as of February 27, 2018, nor do you at this time.

You may have additional options outside of the Appeals Unit of New York State of Health, such as through your health plan or through the Department of Financial Services.

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 QHPs, advance premium tax credits, and cost-sharing reductions may be appealed to

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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

Your appeal of the February 28, 2018 disenrollment notice is **DISMISSED** as a non-appealable issue.

The February 28, 2018 eligibility determination notice is **AFFIRMED**.

You did not qualify for a special enrollment period as of February 27, 2018, nor do you at this time.

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).

You did not qualify for a special enrollment period as of February 27, 2018, nor do you at this time.

You may have additional options outside of the Appeals Unit of New York State of Health, such as through your spouse's health plan or through the Department of Financial Services.

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)

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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)

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 महत्त्वपूर्ण 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. yɛbɛtumi ama wo obi a okyerɛ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

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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.