



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: AP000000029846



Dear [REDACTED],

On May 4, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's February 9, 2018 plan disenrollment notice and February 16, 2018 eligibility determination and 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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Issues

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

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

Did NY State of Health properly determine that your and your spouse's reenrollment in a qualified health plan and the application of advance payments of the premium tax credit was effective no earlier than March 1, 2018?

Procedural History

According to your NY State of Health (NYSOH) account, you and your spouse were determined eligible to receive up to \$558.00 per month in advanced premium tax credit (APTC), effective January 1, 2018. You and your spouse were enrolled into a qualified health plan (QHP), with the maximum amount of APTC applied to the monthly premium, effective January 1, 2018.

On February 9, 2018, NYSOH issued a plan disenrollment notice stating that you and your spouse were disenrolled from your QHP as of January 1, 2018. This notice further stated that your and your spouse's coverage was ending because you did not pay your insurance bill by the payment deadline.

On February 16, 2018, NYSOH issued an eligibility determination notice, based on your February 15, 2018 application, stating in part that you and your spouse

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were eligible to receive up to \$777.00 per month in APTC, effective March 1, 2018.

On February 16, 2018, NYSOH issued a plan enrollment notice confirming in part your and your spouse's enrollment in a QHP with the maximum amount of APTC applied to your monthly premium, effective March 1, 2018.

On March 6, 2018, you spoke to NYSOH's Account Review Unit and appealed the plan disenrollment notice insofar as you and your spouse were disenrolled from your QHP as of January 1, 2018.

On May 4, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and, per your request, the record was left open until May 11, 2018, to allow you time to submit supporting documentation.

On May 10, 2018, you uploaded six documents to your NYSOH account, which were incorporated into the record as "Appellant's Exhibit #1" and the record was closed.

Findings of Fact

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

- 1) Your NYSOH account indicates that you and your spouse were enrolled into a QHP for the 2018 coverage year with a monthly premium of \$206.63, effective January 1, 2018.
- 2) You testified that, on December 31, 2017, you made a payment in the amount of \$300.00 to your QHP, which you intended to be applied to your January 2018 premium.
- 3) You testified that, on January 28, 2018, you made another payment in the amount of \$300.00 to your QHP, which you intended to be applied to your February 2018 premium.
- 4) Your NYSOH account indicates that you and your spouse were disenrolled from your qualified health plan as of January 1, 2018, for non-payment of premium.
- 5) You testified that you and your spouse were enrolled with the same QHP provider for the 2017 coverage year and you and your spouse were disenrolled for non-payment as of November 2017.

- 6) You testified that, after receiving the February 9, 2018 plan disenrollment notice, you contacted your QHP and you were informed that you and your spouse had been disenrolled for non-payment because the payments you made in December 2017 and January 2018, were being retroactively applied to the payments you missed in 2017.
- 7) Your NYSOH account indicates that you submitted an application to NYSOH for financial assistance with health insurance on February 15, 2018, in order to reenroll yourself and your spouse into coverage.
- 8) Your NYSOH account indicates that, on February 15, 2018, you and your spouse were found eligible for up to \$777.00 per month in APTC, effective March 1, 2018, and you reenrolled yourself and your spouse into a QHP.
- 9) Your NYSOH account indicates that you and your spouse were reenrolled into a QHP, with the maximum amount of APTC applied to your monthly premium, effective March 1, 2018.
- 10) You testified that you need your and your spouse's QHP and eligibility for financial assistance to be effective as of January 1, 2018, because you [REDACTED] and have unpaid medical bills from the months of January 2018 and February 2018.
- 11) You testified that you do not believe that it is fair that you and your spouse were disenrolled from your QHP coverage retroactively when you were under the impression that you would have coverage as of January 1, 2018 and paid the monthly premium payments on time.

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)).

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of advance payments of the premium tax credit (APTC) for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health 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)). 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 terminated your and your spouse's QHP for non-payment of premium, effective January 1, 2018.

Your NYSOH account indicates that you and your spouse were enrolled in a QHP for the 2018 coverage year with a monthly premium of \$206.63, effective January 1, 2018.

You testified that, on December 31, 2017, you made a payment to your QHP intending for that payment to be applied to your January 2018 premium. You testified that, on January 28, 2018, you made another payment to your QHP intending for that payment to be applied to your February 2018 premium.

On February 9, 2018, NYSOH issued a notice stating that you and your spouse were disenrolled from your QHP for non-payment of the premium, 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).

You testified that you and your spouse were enrolled into coverage with the same QHP provider for the 2017 coverage year, but that you and your spouse were disenrolled for non-payment of premium as of November 2017. You testified that after receiving the February 9, 2018 plan disenrollment notice, you contacted your QHP and you were informed that you and your spouse had been disenrolled for non-payment because the payments you made in December 2017 and January 2018 were being retroactively applied to the payments you missed in 2017.

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 9, 2018 plan disenrollment notice is DISMISSED as a non-appealable issue.

However, given your credible testimony that you made payments to QHP for health insurance coverage that were intended for the period of January 2018 and February 2018, the NYSOH's Appeals Unit is referring your case to Plan Management to further investigate and to follow up with your QHP to see if anything can be done to resolve this matter.

In addition, since the issue concerns a health insurer and/or payment, reimbursement, coverage, benefits, rates and/or 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>.

The second issue under review is whether NYSOH properly determine that your and your spouse's enrollment in a qualified health plan, as well as the application of APTC, was effective no earlier than March 1, 2018.

The record shows that, on February 15, 2018, you updated the information in your NYSOH account and submitted a request to reenroll yourself and your spouse into a QHP with the application of your APTC. On February 16, 2018, NYSOH issued a plan enrollment notice stating that your and your spouse's enrollment in your qualified health plan, with the application of your APTC, was effective March 1, 2018.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month. Additionally, the date on which a qualified health 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 fifteenth day of a month goes into effect on the first day of the following month.

Since you updated your NYSOH account on February 15, 2018 and requested to reenroll yourself and your spouse into a plan that day, NYSOH properly determined that your and your spouse's enrollment in your QHP, with the application of your APTC, was effective the first day of the month following February 2018, that is, on March 1, 2018.

Therefore, NYSOH's February 16, 2018 eligibility determination and plan enrollment notices are **AFFIRMED** because those notices properly stated your and your spouse's eligibility to enroll in a QHP with APTC and enrollment in your QHP, with the application of your APTC to your monthly premium, as of March 1, 2018.

Decision

Your appeal of the February 9, 2018 plan disenrollment notice is **DISMISSED** as a non-appealable issue.

Your case is referred to Plan Management to further investigate and to follow up with your QHP to see if anything can be done to resolve this matter.

The February 16, 2018 eligibility determination notice is **AFFIRMED**.

The February 16, 2018 plan enrollment notice is **AFFIRMED**.

Effective Date of this Decision: May 16, 2018

How this Decision Affects Your Eligibility

This decision does not change your and your spouse's current eligibility.

Your and your spouse's reenrollment in your qualified health plan, and your eligibility for and application of APTC properly began as of March 1, 2018.

Your case is referred to Plan Management to further investigate and to follow up with your QHP to see what may be done to resolve the matter regarding your testimony regarding the misappropriation of premium payments.

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).

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 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 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).

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 9, 2018 plan disenrollment notice is **DISMISSED** as a non-appealable issue.

Your case is referred to Plan Management to further investigate and to follow up with your QHP to see if anything can be done to resolve this matter.

The February 16, 2018 eligibility determination notice is **AFFIRMED**.

The February 16, 2018 plan enrollment notice is **AFFIRMED**.

This decision does not change your and your spouse's current eligibility.

Your and your spouse's reenrollment in your qualified health plan, and your eligibility for and application of APTC properly began as of March 1, 2018.

Your case is referred to Plan Management to further investigate and to follow up with your QHP to see what may be done to resolve the matter regarding your testimony regarding the misappropriation of premium payments.

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)

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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