



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

Notice of Decision

Decision Date: May 29, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000030378



Dear [REDACTED],

On May 15, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 30, 2018 enrollment confirmation 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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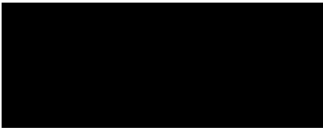


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: May 29, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000030378



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 you and your daughter's enrollment in a qualified health plan (QHP) began no earlier than March 1, 2018?

Procedural History

On December 6, 2017, NYSOH issued a notice of eligibility redetermination stating that you and [REDACTED] were eligible to receive up to \$437.00 per month in advance payments of the premium tax credits (APTC). This eligibility was effective January 1, 2018.

Also on December 6, 2017, NYSOH issued a letter confirming you and [REDACTED] enrollment in an Empire Blue Cross/Blue Shield (BC/BS) silver level QHP, with a monthly premium responsibility of \$1,063.64, after your APTC of \$437.00 was applied, effective January 1, 2018.

On January 14, 2018, NYSOH issued a disenrollment notice stating you and [REDACTED] were disenrolled from your QHP, effective January 1, 2018, because you did not pay your insurance bill by the payment deadline.

On January 29, 2018, you re-selected the same Empire BC/BS QHP for enrollment on behalf of yourself and [REDACTED]

On January 30, 2018, NYSOH issued a notice of enrollment confirmation, confirming you and [REDACTED] enrollment in your QHP, with the application of your APTC to your monthly premium, beginning March 1, 2018.

On March 19, 2018, you spoke to NYSOH's Account Review Unit and appealed the January 30, 2018 enrollment confirmation notice, insofar as it began you and [REDACTED] enrollment in your QHP on March 1, 2018, and not February 1, 2018.

On May 15, 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 support the following findings of fact:

- 1) You applied to NYSOH for financial assistance with your health insurance on December 5, 2017.
- 2) You testified, and the record reflects, that you selected a QHP for enrollment on behalf of yourself and [REDACTED] on December 5, 2017, and your enrollment in that plan was expected to start on January 1, 2018.
- 3) You testified you waited to receive information from your QHP, including ID cards and an invoice for your January premium, but you received nothing.
- 4) You testified you were out of town until [REDACTED] and, when you returned, you still had received nothing from your health plan.
- 5) You testified you believed your health plan would cancel you and your [REDACTED] for nonpayment once the tenth of the month passed, and you believe you did receive a letter from your QHP stating as much.
- 6) You testified you called NYSOH on January 11, 2018 to tell them you never receive a bill or any paperwork from your health plan.
- 7) You testified you told the NYSOH representative you spoke with that your plan disenrolled you and [REDACTED] for nonpayment, and the representative did not disagree with this.
- 8) You testified the NYSOH representative redid your application, and your understanding was you would now have coverage as of February 1, 2018.

- 9) You testified you specifically told the NYSOH representative you wanted coverage for February, and that you discussed with the representative that you would not have coverage for January 2018.
- 10) You testified you received a letter from your plan stating you should make a payment before February 1, 2018, and so you called on January 25, 2018 and made a payment.
- 11) You testified you then received a notice from your QHP at the end of January stating you owed another premium, and that you and your [REDACTED] coverage started as of January 1, 2018.
- 12) You testified you called your QHP and were told by the person you spoke with that NYSOH sent your QHP a notice stating you and [REDACTED] coverage should start on January 1, 2018.
- 13) You testified you called NYSOH on January 30, 2018 with someone from your QHP on the call, and explained the problem. You testified the NYSOH representative told you that there was no record of you reapplying on January 11, 2018, and that you and [REDACTED] coverage would begin again would be March 1, 2018.
- 14) Your NYSOH account reflects you and your [REDACTED] were re-enrolled into your QHP on January 29, 2018, with coverage starting on March 1, 2018.
- 15) You testified you ended up paying the premium for January 2018, even though you did not use the coverage in that month because you knew that you did not have coverage.
- 16) You testified you did not receive your ID cards from your plan until the beginning of February 2018.
- 17) You testified you and [REDACTED] want to be disenrolled from coverage for the month of January 2018 and have your payment credited to a future month.
- 18) Notes entered into NYSOH's system on January 11, 2018 in Incident [REDACTED] read, "Health plan doesn't see consumers on file. Please resend [REDACTED] file."
- 19) Notes entered into the same incident number on January 12, 2018 read, "01.01.18 QHP enrollment [REDACTED] reissued."
- 20) After the hearing, the Hearing Officer listened to a recording of your phone call with NYSOH's customer service line on January 11, 2018. The following findings of fact are taken from that call:

- a. You told the NYSOH representative you were calling because you never received any documentation or emails from your QHP, and since it was a week and a half into January, you were not sure what to do;
- b. The NYSOH representative asked you if you made a payment, and you informed [REDACTED] you never received an invoice or any other information telling you how to make a payment;
- c. The NYSOH representative told you [REDACTED] would give you a phone number for your QHP so you could call to find out what was happening with your coverage;
- d. The NYSOH representative provided you with an [REDACTED] number to give to your QHP when you called;
- e. The NYSOH representative told you [REDACTED] would resubmit the information to your QHP so that your coverage would start when it was supposed to, and you would not have any problem;
- f. The NYSOH representative asked you to hold while [REDACTED] worked on the form [REDACTED] needed to complete to resubmit your information to your QHP;
- g. The NYSOH representative provided you with a tracking number so that you could make sure your coverage could be reactivated in case anything went wrong;
- h. You asked the NYSOH representative if the payment you made would be for January or February coverage;
- i. The NYSOH representative began to answer you, however you interrupted to explain to [REDACTED] the problems you have had with BC/BS in the past;
- j. The NYSOH representative asked you whether you wanted to change to a different QHP, and you said no;
- k. The NYSOH representative told you to wait 24-48 hours before calling your QHP to make a payment to ensure the information [REDACTED] sent to them went through;

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; and (4) a denial of a request for a special enrollment

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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 because 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 QHP 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 issue under review is whether NYSOH properly determined that you and [REDACTED] enrollment in a QHP, as well as the application of APTC, was effective March 1, 2018.

You originally updated your NYSOH application on December 5, 2017, and you and [REDACTED] were found eligible to receive up to \$437.00 in APTC, effective January 1, 2018. Also on December 5, 2017, you selected a silver level BC/BS QHP for enrollment on behalf of yourself and [REDACTED]

However, on January 14, 2018, NYSOH issued a notice of disenrollment, stating you and [REDACTED] were disenrolled from your QHP, effective January 1, 2018, because you did not pay your bill by the payment deadline.

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The 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.

The Appeals Unit of NYSOH does not have the authority to review the January 14, 2018 disenrollment notice for any purported nonpayment of the premium, as this action by your QHP is not within the Appeals Unit's jurisdiction.

However, you testified you never received any letter, email, insurance card, or invoice from your QHP before January 2018. You testified you were out of town and returned on [REDACTED] to discover you still had not received anything, so you called NYSOH on January 11, 2018. You testified you told the NYSOH representative you had already received a notice from your plan stating your coverage was ending for nonpayment, and the NYSOH representative completed a new application on you and [REDACTED] behalf, and told you that your coverage would begin on February 1, 2018. You testified you received a letter from your QHP telling you to pay your premium before February 1, 2018, which you did, and that you received insurance cards for you and [REDACTED] in the beginning of February 2018. However, you testified you then received a notice from your QHP stating your coverage was starting on January 1, 2018, and that you owed January's premium for yourself and [REDACTED]. You testified you called your QHP, and were told they were in receipt of a notice from NYSOH stating you and [REDACTED] coverage was effective January 1, 2018.

A review of the January 11, 2018 phone call you had with NYSOH reveals the likely explanation for you and [REDACTED] coverage beginning on January 1, 2018, instead of February 1, 2018 as you believed to be the case. Contrary to your testimony, you did not tell the NYSOH representative you had been disenrolled from your coverage for nonpayment, and the NYSOH representative you spoke with on January 11, 2018 did not submit a new application on your behalf. Rather, [REDACTED] informed you [REDACTED] would resubmit you and your [REDACTED] enrollment information to your QHP. The NYSOH representative told you [REDACTED] was resubmitting information to your QHP so that your coverage would start "when it was supposed to," and you would not be disenrolled for nonpayment. Though you did ask [REDACTED] whether your payment, once you made it, would be for January or February, you interrupted [REDACTED] when [REDACTED] began to answer the question to explain to [REDACTED] that you were not very happy with BC/BS. No other discussion of the start date of your coverage occurred.

Notes in NYSOH's system from January 11 and 12, 2018 state that your QHP did not have you and [REDACTED] "on file," and that NYSOH resubmitted [REDACTED] (enrollment) form to the plan for January 1, 2018 coverage. Therefore, it appears

NYSOH recognized that your QHP had not received the enrollment information for you and [REDACTED] and resubmitted the required form to secure your enrollment. Since there was no discussion of a change in start date, and since you and [REDACTED] coverage was supposed to begin on January 1, 2018, the NYSOH representative resubmitted the enrollment request with a January 1, 2018 coverage start date. This is the likely explanation for why your QHP received information at the end of January 2018 stating you and [REDACTED] coverage started as of January 1, 2018.

However, in the interim, the January 14, 2018 disenrollment notice was triggered. Though NYSOH has no authority to rule on whether it was proper for your QHP to disenroll you and [REDACTED] for nonpayment, the record is clear that, as of January 11, 2018, when you called NYSOH, your enrollment information had not yet been received by the plan, and NYSOH was aware of this fact. As such, you should have been able to decide at that point whether you still wanted coverage for January 2018, or whether you wanted your coverage to begin as of February 1, 2018. Instead, NYSOH resubmitted your enrollment information to your QHP with a January 1, 2018 start date.

The record shows that on January 29, 2018, your BC/BS QHP was reselected for enrollment on behalf of you and [REDACTED]. On January 30, 2018, NYSOH issued an enrollment confirmation notice stating that you and [REDACTED] enrollment in your QHP was March 1, 2018.

Ordinarily, the date on which a QHP can take effect depends on the day a person selects the plan for enrollment. A plan that is after the fifteenth day of a month goes into effect on the first day of the second following month. As such, you and [REDACTED] reenrollment into your QHP would ordinarily be effective as of March 1, 2018, based on the fact you reselected your plan for enrollment on January 29, 2018.

However, had NYSOH asked you on January 11, 2018 whether you wanted your enrollment information to be resent to your plan for a January 1, 2018 start date, or whether you wanted your coverage to begin on February 1, 2018, you could have avoided the nonpayment problem and chosen for you and [REDACTED] coverage to begin on February 1, 2018 instead. As NYSOH was aware on January 11, 2018 that your enrollment had not gone into effect on January 1, 2018, as it was supposed to, it would have been appropriate for NYSOH to offer you the choice of a February 1, 2018 start date.

Therefore, NYSOH's January 30, 2018 enrollment confirmation notice is MODIFIED to state you and [REDACTED] enrollment in your QHP, with the application of your APTC to your premium, began on February 1, 2018.

Your case is RETURNED to NYSOH's Plan Management to ensure you and [REDACTED] are disenrolled from coverage for the month of January 2018, and any

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premium paid for that month is credited toward the cost of your coverage going forward.

Decision

The January 30, 2018 enrollment confirmation notice is MODIFIED to state you and [REDACTED] were enrolled in your BC/BS QHP, with the application of your APTC to your monthly premium, beginning February 1, 2018.

Your case is RETURNED to NYSOH's Plan Management to contact your QHP and ensure you and [REDACTED] are disenrolled from coverage for the month of January 2018, and any premium paid for that month is credited toward the cost of your coverage going forward.

Effective Date of this Decision: May 29, 2018

How this Decision Affects Your Eligibility

This decision does not change you and [REDACTED] eligibility.

You and [REDACTED] enrollment in your QHP should have started on February 1, 2018.

Your case is being sent back to NYSOH to ensure you and [REDACTED] are disenrolled from your QHP for the month of January 2018, and that any premiums paid for that month are credited toward the cost of your coverage going forward.

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

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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

The January 30, 2018 enrollment confirmation notice is MODIFIED to state you and [REDACTED] were enrolled in your BC/BS QHP, with the application of your APTC to your monthly premium, beginning February 1, 2018.

Your case is RETURNED to NYSOH's Plan Management to contact your QHP and ensure you and [REDACTED] are disenrolled from coverage for the month

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of January 2018, and any premium paid for that month is credited toward the cost of your coverage going forward.

This decision does not change you and [REDACTED] eligibility.

You and [REDACTED] enrollment in your QHP should have started on February 1, 2018.

Your case is being sent back to NYSOH to ensure you and [REDACTED] are disenrolled from your QHP for the month of January 2018, and that any premiums paid for that month are credited toward the cost of your coverage going forward.

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 मदद 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&tumi 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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