



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

Notice of Decision

Decision Date: May 31, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000030670



Dear [REDACTED],

On May 22, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's March 6, 2018 disenrollment notice and March 24, 2018 eligibility determination 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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Decision Date: May 31, 2018

NY State of Health Account ID: [REDACTED]
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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 (NYSOH) properly terminate your and your spouse's qualified health plan for non-payment of premium on January 1, 2018?

Did NYSOH properly determine that you and your spouse do not qualify to enroll in a qualified health plan outside of the open enrollment period?

Procedural History

On October 28, 2017, NYSOH issued a renewal notice stating that you and your spouse were eligible to purchase a qualified health plan at full cost, effective January 1, 2018.

On November 17, 2017, NYSOH issued a plan enrollment notice confirming your and your spouse's enrollment in your qualified health plan, beginning January 1, 2018.

On March 6, 2018, NYSOH issued a disenrollment notice stating that your and your spouse's enrollment in your qualified health plan was terminated, effective January 1, 2018, because a premium payment had not been received by the health plan.

On March 12, 2018, NYSOH received your and your spouse's application for health insurance.

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On March 13, 2018, NYSOH issued an eligibility determination notice stating that, if you and your spouse qualified for a Special Enrollment Period, you and your spouse would be eligible to purchase a qualified health plan at full cost, effective April 1, 2018.

Also on March 13, 2018, NYSOH issued a plan enrollment notice stating that you and your spouse do not qualify to select a health plan outside of the open enrollment period.

On March 23, 2018, NYSOH received your application for health insurance. That day, a preliminary eligibility determination was prepared stating that you and your spouse did not qualify to select a qualified health plan outside of the open enrollment period for 2018.

Also on March 23, 2018, you spoke to NYSOH's Account Review Unit and appealed your and your spouse's inability to enroll into a qualified health plan outside of the open enrollment period.

On March 24, 2018, NYSOH issued an eligibility determination notice stating that you and your spouse do not qualify to select a qualified health plan outside of the open enrollment period for 2018. It further stated that, if you and your spouse did qualify for a Special Enrollment Period, you and your spouse would be eligible to purchase a qualified health plan at full cost, effective April 1, 2018.

On May 22, 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) According to your NYSOH account and your testimony, throughout the 2017 coverage year, your and your spouse's monthly premium was \$119.80.
- 2) According to your NYSOH account and your testimony, beginning January 1, 2018, your and your spouse's monthly premium was \$893.58.
- 3) You testified that you paid your and your spouse's 2017 premium amount, \$119.80, to your qualified health plan for the months of January 2018 and February 2018, because you misunderstood the November 17, 2017 notice. You further testified that because of the dramatic increase in the premium payment from 2017 to 2018, you believed that the \$893.58 was

the total cost of your and your spouse's health insurance for the year, and that your monthly premium remained \$119.80.

- 4) You testified that you did not realize this mistake until you and your spouse were disenrolled from your health plan.
- 5) On March 6, 2018, you and your spouse were disenrolled from your qualified health plan, effective January 1, 2018.
- 6) You testified that you are seeking re-enrollment into your qualified health plan because you have [REDACTED] medical issues that require immediate attention.
- 7) You testified that you contacted your qualified health plan to explain your confusion, make a payment and re-enroll, but they would not assist you.
- 8) On March 12, 2018, you contacted NYSOH to reenroll yourself and your spouse into a qualified health plan.
- 9) You testified that, since filing your application on March 12, 2018, 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)).

Open Enrollment Period

NYSOH must provide annual open enrollment periods during which time qualified individuals may enroll in a health plan and enrollees may change health plans (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

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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 qualified health plan, and an enrollee may change their enrollment to another plan. This is generally permitted when one of the following triggering events occur:

- (1) The qualified individual or his or her dependent either:
 - (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.
- (2)
 - (i) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care, or through a child support order or other court order.
 - (ii) the enrollee loses a dependent or is no longer considered a dependent through divorce or legal separation as defined by State law in the State in which the divorce or legal separation occurs, or if the enrollee, or his or her dependent, dies.
- (3) The qualified individual, or his or her dependent, becomes newly eligible for enrollment in a qualified health plan because he or she gains citizenship, status as a national, or lawful present or is no longer incarcerated.
- (4) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a qualified health plan is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, misconduct, or inaction of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities.

(5) The enrollee or, his or her dependent adequately demonstrates to NYSOH that the qualified health plan in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee;

(6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or change in eligibility for cost-sharing reductions.

(7) The qualified individual or enrollee, or his or her dependent, gains access to new qualified health plan as a result of a permanent move and either—

(i) Had minimum essential coverage for one or more days during the 60 days preceding the date of the permanent move, or

(ii) Was living outside of the United States or in a United States territory at the time of the permanent move;

(8) The qualified individual or dependent who gains or maintains status as an Indian may enroll in a qualified health plan or change from one plan to another, once per month.

(9) The qualified individual or enrollee, or his or her dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide;

(10) A qualified individual or enrollee—

(i) Is a victim of domestic abuse or spousal abandonment, including a dependent or unmarried victim within a household, is enrolled in minimum essential coverage and seeks to enroll in coverage separate from the perpetrator of the abuse or abandonment; or

(ii) Is a dependent of a victim of domestic abuse or spousal abandonment, on the same application as the victim, may enroll in coverage at the same time as the victim;

(11) A qualified individual or dependent—

(i) Applies for coverage through NYSOH during the annual open enrollment period or due to a qualifying event, is assessed as potentially eligible for Medicaid or Child Health Plus and is determined ineligible for Medicaid or Child Health Plus either after

open enrollment has ended or more than 60 days after the qualifying event; or

(ii) Applies for coverage at their Local Department of Social Services or Human Resources Administration during the annual open enrollment period, and is determined ineligible for Medicaid or Child Health Plus after open enrollment has ended;

(12) The qualified individual or enrollee, or his or her dependent, adequately demonstrates to NYSOH that a material error related to plan benefits, service area, or premium influenced the qualified individual's or enrollee's decision to purchase a qualified health plan; or

(13) At the option of NYSOH, the qualified individual provides satisfactory documentary evidence to verify his or her eligibility for an insurance affordability program or enrollment following termination of enrollment due to a failure to verify such status within 90 days. NYSOH has not elected to adopt this subsection at this time.

(45 CFR § 155.420(d)).

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 qualified health plan (45 CFR § 155.420(c)(1)).

Legal Analysis

The first issue under review is whether NYSOH properly terminated your and your spouse's qualified health plan for non-payment of premium effective, January 1, 2018.

Throughout the 2017 coverage year, you and your spouse were enrolled in a qualified health plan, with a monthly premium of \$119.80. Beginning January 1, 2018, for the 2018 coverage year, you and your spouse were enrolled in a qualified health plan with a monthly premium of \$893.58.

You testified that you paid your and your spouse's 2017 premium amount, \$119.80, to your qualified health plan for the months of January 2018 and February 2018 because you misunderstood the November 17, 2017 notice. You testified that because of the dramatic increase in the premium payment from 2017 to 2018, you believed that the \$893.58 was the total cost of your and your spouse's health insurance for the year, and that your monthly premium remained \$119.80. You testified you were unaware of the error in your payments when you and your spouse were disenrolled from your plan.

On March 6, 2018, NYSOH issued a notice stating that you and your spouse 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 and your spouse were properly terminated from your health plan for non-payment of premiums. Therefore, your appeal of the March 6, 2018 disenrollment notice is DISMISSED as a non-appealable issue.

However, you testified that you are seeking re-enrollment into your qualified health plan because you have serious on-going medical issues that require immediate attention. You testified that you contacted your qualified health plan to explain your confusion regarding the premium payment, to make a payment and re-enroll, but they would not assist you.

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>.

The second issue under review is whether NYSOH properly determined that you and your spouse do not qualify to enroll in a qualified health plan outside of the open enrollment period.

NYSOH provided an open enrollment period from November 1, 2017 until January 31, 2018. On March 23, 2018, after the open enrollment period ended, you submitted a request to reenroll you and your spouse in a qualified health plan.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period in order 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. You testified that there have been no changes to your household in 2018.

Though you and your spouse did lose health coverage as a result of the March 6, 2018 disenrollment notice, the loss of health insurance coverage in this case cannot be considered a triggering event for a special enrollment period. Since it was a result of non-payment of your premiums, NYSOH considers the non-payment of premium to be a voluntary act that caused your coverage to terminate.

The credible evidence of record indicates that, since the open enrollment period closed on January 31, 2017, you and your spouse did not experience a triggering event that would qualify either of you for a special enrollment period as of the date of the hearing.

Therefore, the March 24, 2018 eligibility determination notice, to the extent it denied you a special enrollment period, was correct and is **AFFIRMED**.

Decision

Your appeal of the insurer's termination of your and your spouse's enrollment in your qualified health plan for non-payment of premiums, effective January 1, 2018, is **DISMISSED** as a non-appealable issue.

The March 24, 2018 eligibility determination notice is **AFFIRMED**.

Effective Date of this Decision: May 31, 2018

How this Decision Affects Your Eligibility

You and your spouse did not qualify for a special enrollment period as of March 23, 2018, nor do either of you at this time.

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

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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 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

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- By fax: 1-855-900-5557

Summary

Your appeal of the insurer's termination of your and your spouse's enrollment in your qualified health plan for non-payment of premiums, effective January 1, 2018, is DISMISSED as a non-appealable issue.

The March 24, 2018 eligibility determination notice is AFFIRMED.

You and your spouse did not qualify for a special enrollment period as of March 23, 2018, nor do either of you at this time.

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 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. y&b&tumi ama wo obi a okyer& 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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