



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

Notice of Decision

Decision Date: December 15, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP28696492

[REDACTED]

[REDACTED]

On November 14, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 27, 2017 eligibility determination and enrollment confirmation 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: December 15, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP28696492

[REDACTED]

Issues

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

Was your appeal of NY State of Health's (NYSOH) May 27, 2017 eligibility determination and enrollment confirmation notices timely?

Did NYSOH properly determine that your enrollment in a qualified health plan and the application of advance payments of the premium tax credit were effective no earlier than July 1, 2017?

Procedural History

On January 13, 2016, NYSOH issued an eligibility determination notice, based on your January 12, 2016 application, stating that you were eligible for the Essential Plan, effective February 1, 2016.

Also on January 13, 2016, NYSOH issued an enrollment confirmation notice, stating that you were enrolled in the Essential Plan, effective February 1, 2016.

On September 8, 2016, NYSOH issued a disenrollment notice, stating that your coverage was terminated effective July 31, 2017, because premium payments were not received by the health plan.

On October 3, 2016, NYSOH received your updated application for financial assistance with health insurance.

On October 9, 2016, NYSOH issued an eligibility determination notice, stating that you were eligible to receive up to \$216.00 in advance payments of the premium tax credits (APTC) and, if you selected a silver-level qualified health plan, for cost-sharing reductions (CSR), effective November 1, 2016.

On May 26, 2017, NYSOH received your updated application for financial assistance with health insurance.

On May 27, 2017, NYSOH issued a notice of eligibility redetermination stating that you were eligible to receive up to \$369.00 per month in APTC and, if you selected a silver-level qualified health plan, for CSR. This eligibility was effective July 1, 2017.

On May 27, 2017, NYSOH issued an enrollment confirmation notice, stating that you were enrolled in a qualified health plan with a monthly premium responsibility of \$127.95, after your APTC of \$369.00 was applied, both effective July 1, 2017.

On September 1, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination and enrollment confirmation notices insofar as you did not have coverage from February 1, 2017 through June 30, 2017.

On November 8, 2017, you had a scheduled telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested additional time to review documentation, and the Hearing Officer agreed to adjourn your hearing.

On November 14, 2017, you had an adjourned hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open up to November 28, 2017 to allow you time to submit supporting documents.

On November 30, 2017, NYSOH received three separate faxes. Despite being received after the November 28, 2017 deadline, the faxes were incorporated into the record collectively as appellant's Exhibit #1 and the record was closed that day.

Findings of Fact

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

- 1) The record reflects that you were determined eligible for the Essential Plan effective February 1, 2016.
- 2) NYSOH issued a disenrollment notice dated September 8, 2016, stating that you had been disenrolled from your Essential Plan coverage effective July 31, 2017 because you had not paid your premium by the deadline.

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- 3) According to [REDACTED], your Essential Plan coverage end date was updated to reflect that you had coverage until October 31, 2016. NYSOH did not issue a corresponding notice.
- 4) You testified that you continued paying your Essential Plan premiums into 2017, and submitted documentation to support your testimony. You submitted premium payment notices from your Essential Plan referencing your coverage into 2017, as well as your January 2017 bank statement showing payments made to the health plan.
- 5) An application was submitted on October 3, 2016, resulting in an eligibility determination notice dated October 9, 2017, which stated that you were no longer eligible for the Essential Plan, but were eligible to receive up to \$216.00 in APTC and, if you selected a silver-level qualified health plan, for CSR. There is no indication that you selected a plan at that time.
- 6) You submitted an application to NYSOH for financial assistance on May 26, 2017.
- 7) You testified, and the record reflects, that you selected a qualified health plan on May 26, 2017.
- 8) Your enrollment in the plan became effective July 1, 2017.
- 9) You testified that you need your coverage to begin on February 1, 2017 because you have outstanding bills for medical services.
- 10) The record reflects that you spoke with NYSOH on May 26, 2017 to dispute the July 1, 2017 start date for your coverage.

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

Applicable Law and Regulations

Valid Appeal Requests

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) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45

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CFR § 155.505; and (5) 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)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR §155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(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 your appeal of NYSOH's May 27, 2017 eligibility determination and enrollment confirmation notices was timely.

The record reflects that you filed an appeal with NYSOH regarding your eligibility and enrollment start date on September 1, 2017.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of the notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of your coverage start date as stated in the May 27, 2017 notice, an appeal should have been filed by July 26, 2017.

Although your appeal was untimely on its face with regard to the May 27, 2017 notice, the record reflects that you spoke with NYSOH on May 26, 2017, the same day that you submitted an application which resulted in the July 1, 2017 start date.

As you originally contacted NYSOH the same day that you submitted the application resulting in the May 27, 2017 eligibility determination notice that stated your eligibility for APTC would begin on July 1, 2017, your failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal.

The second issue under review is whether NYSOH properly determine that your enrollment in a qualified health plan, as well as the application of APTC, was effective no earlier than July 1, 2017.

The record shows that on May 26, 2017, you updated the information in your NYSOH account and submitted a request to enroll in a qualified health plan. On May 27, 2017, NYSOH issued an enrollment confirmation notice stating that your enrollment in your qualified health plan was effective July 1, 2017 and that APTC would be applied to your monthly premium effective July 1, 2017.

When an individual changes information in their application after the 15th of any month, NYSOH will make the redetermination that results from the change effective the first day of the second 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 after the fifteenth day of a month goes into effect on the first day of the second following month.

Therefore, NYSOH's May 27, 2017 eligibility determination notice and enrollment confirmation notice are **AFFIRMED** because it properly began your enrollment in

your qualified health plan as well as your advance premium tax credits on July 1, 2017.

Since you testified that you continued to make premium payments for your Essential Plan coverage into 2017, and submitted documentation to support your testimony including premium payment notices from your Essential Plan referencing your coverage into 2017, as well as your January 2017 bank statement showing payments made to the health plan, your case is RETURNED to NYSOH to investigate whether or not your Essential Plan continued to receive payments from you despite notifying NYSOH that you had been disenrolled for non-payment as of October 2016.

Decision

The May 27, 2017 eligibility determination notice is AFFIRMED.

The May 27, 2017 enrollment confirmation notice is AFFIRMED.

Your case is RETURNED to NYSOH to investigate whether or not your Essential Plan continued to receive payments from you despite notifying NYSOH that you had been disenrolled for non-payment as of October 2016.

Effective Date of this Decision: December 15, 2017

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

Your enrollment in your qualified health plan, and your eligibility for APTC properly began as of July 1, 2017.

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.

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).

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
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The May 27, 2017 eligibility determination notice is **AFFIRMED**.

The May 27, 2017 enrollment confirmation notice is **AFFIRMED**.

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This decision does not change your eligibility.

Your enrollment in your qualified health plan, and your eligibility for advance payments of the premium tax credit properly began as of July 1, 2017.

Your case is RETURNED to NYSOH to investigate whether or not your Essential Plan continued to receive payments from you despite notifying NYSOH that you had been disenrolled for non-payment as of October 2017.

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&btumi ama wo obi a okyerε 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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