



STATE OF NEW YORK
DEPARTMENT OF HEALTH
PO Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: December 21, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP28736216

[REDACTED]

Dear [REDACTED],

On November 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's repeated failure since January 2017 to allow you and your family to enroll in a plan because of a purported defect in your account.

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
PO 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 NY State of Health 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

Decision Date: December 21, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP28736216



Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) improperly fail to allow you and your family to apply for health insurance and financial assistance through NYSOH, and improperly prevent you from enrolling your family into coverage through NYSOH, both beginning January 2017?

Procedural History

Your account was created on or before November 7, 2016.

On September 13, 2017, you filed an appeal; your appeal could not be processed through your account, apparently because of defects in either your account or NYSOH's computer system.

On September 14, 2017, your application for financial assistance with health insurance for yourself through NYSOH was processed.

On September 15, 2017, NYSOH issued a notice of eligibility determination, stating that you individually were eligible to enroll in a qualified health plan (QHP) and to receive up to \$38.00 in advance payments of the premium tax credit (APTC), effective October 1, 2017; you would be able to enroll if you qualified for a special enrollment period.

Also on September 15, 2017, NYSOH issued a notice of eligibility determination, stating that your household's eligibility had been redetermined, and that "the

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individual(s) listed below” did not qualify for health coverage through NYSOH; however, no individuals were listed.

On October 4, 2017, your application was updated to include your spouse and child.

On October 5, 2017 and October 11, 2017, NYSOH issued notices of eligibility determination, stating that you and your wife were collectively eligible to enroll in a QHP and to receive up to \$553.00 in APTC, as well as cost-sharing reductions (CSR) for a limited time, effective November 1, 2017. You and your family members would be able to enroll if you qualified for a special enrollment period. You were also directed to provide income documentation.

On October 16, 2017, NYSOH issued notices of eligibility determination, stating that you and your spouse were not eligible to enroll in a plan outside of open enrollment period. Your child was eligible for and enrolled in a Child Health Plus plan effective November 1, 2017.

On November 9, 2017, NYSOH issued a notice of eligibility determination, stating that you and your spouse were eligible to enroll in a QHP and together to receive up to \$389.00 in APTC, effective December 1, 2017.

On November 13, 2017, 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.

On November 20, 2017, NYSOH issued a notice of eligibility determination, stating that you and your spouse were eligible to enroll in a QHP and together to receive up to \$562.00 in APTC, effective January 1, 2018.

On November 23, 2017, NYSOH issued a notice, confirming enrollment for you and your spouse in a QHP, effective January 1, 2018.

Findings of Fact

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

- 1) On September 13, 2017, NYSOH confirmed that there had been confirmed technical difficulties with your account “since 03/Jan/17 5:58 PM.”
- 2) Also on September 13, 2017, NYSOH documented that on January 3, 2017, “[appellant] contacted the Marketplace to update the application. A Resequenced defect arose on the account [REDACTED] was filed in an attempt to correct the error. At this time, there has been no resolution and defect is still present on account. Therefore, no eligibility determination has been

made and enrollment is not possible. The appellant [...] is disputing the inability of himself and household members to enroll in coverage due to defect still existing on account; requesting ability to enroll in coverage.”

- 3) You testified that you first applied for health insurance through NYSOH on behalf of your family on November 8, 2016. You got an error message, and were advised to try again.
- 4) You testified that you called NYSOH 40 to 50 times since then, and were only told that there was a defect in your account that prevented NYSOH from submitting an application on your behalf. You also tried to apply a few more times on your own, but each time you got an error message and were told to call, which you did.
- 5) You testified that you appealed the inability to enroll yourself, your spouse, and your child into health coverage during 2017.
- 6) You testified that you no longer wish to have coverage for your family in 2017; the year is almost over. However, you are concerned about incurring a tax penalty for not having coverage for your family in 2017.

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

Applicable Law and Regulations

NYSOH must accept applications for health insurance and financial assistance (45 CFR § 155.310(a), (b)). When an individual applies for insurance through NYSOH, NYSOH must determine that person’s eligibility promptly and without undue delay (45 CFR § 155.310(e)(1)).

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 issue under review is whether NYSOH improperly and repeatedly failed to allow you and your family to apply for health insurance and financial assistance

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through NYSOH, and improperly prevented you from enrolling your family into coverage through NYSOH, both beginning January 2017.

You testified, and NYSOH's records confirm, that you created your NYSOH account in November 2016, and tried to apply for coverage. Your application could not be processed, and your family could not be enrolled in coverage, because of technical defects in your account.

You credibly testified that you tried numerous times to have the defect fixed, and NYSOH's records confirm that, through no fault of your own, you were not able to even apply for health insurance from January 3, 2017 until approximately September 14, 2017. When you were finally able to submit an application, NYSOH then found that you were not eligible for a special enrollment period.

The Appeals Unit finds that you timely attempted to apply for and enroll your family in health insurance coverage. It is also found that NYSOH was required to accept an application from you for health insurance and financial assistance with that insurance, but improperly failed to do so solely because of a purported defect in your account. You and your family have more recently been found eligible to enroll in coverage and to receive financial assistance.

You, your spouse, and your child were improperly prevented from applying for and enrolling in coverage, through no fault of your own. Had you been allowed to apply for and enroll in a qualified health plan in November 2016, when you created your account, your coverage would have been in effect at least as early as January 1, 2017.

Therefore, the notices of decision issued regarding the 2017 coverage year are MODIFIED to reflect that you and your family were eligible to enroll in coverage through NYSOH at least as early as January 1, 2017.

Although you have testified that you no longer want coverage for 2017, and there is no benefit to you in retroactively enrolling in coverage that you were unable to use, enrolling retroactively in coverage for 2017 is still available for your family should you change your mind. Your case is being RETURNED to NYSOH to confirm that you do not want the start date of your family's coverage to be backdated.

In any event, please retain this letter in your tax records for 2017, in the event you need to show that your appeal was resolved in your favor, and that any lack of health insurance coverage for your family was the result of errors made by NYSOH, despite multiple efforts by you to have the problem corrected, and not due to any fault or error on your part.

Decision

The notices of decision issued regarding the 2017 coverage year are MODIFIED to reflect that you and your family should have been found eligible to enroll in coverage through NYSOH at least as early as January 1, 2017, and that NYSOH improperly prevented your family from enrolling in a plan.

Your case is RETURNED to NYSOH to immediately contact you to determine whether you want the start date of your family's coverage to be backdated.

Effective Date of this Decision: December 21, 2017

How this Decision Affects Your Eligibility

PLEASE NOTE: NYSOH's failure to properly enroll your family in coverage as of January 1, 2017 may have left your family without insurance coverage for part of the 2017 coverage year. During the hearing, you testified that you are concerned about receiving a tax penalty because of being without coverage. Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. You might qualify for a health coverage exemption in 2017 if you did not have health coverage while you were waiting for an appeal decision about coverage eligibility or savings and your appeal was eventually successful.

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

You will find the information you need to claim the exemption due to an appeal decision at <https://www.healthcare.gov/exemptions-tool/#/results/2017/details/eligible-based-on-appeal>. You can also call 1-800-318-2596.

Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word "pending" in column "c" and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

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

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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 Have Questions about this Decision (Customer Service Resources):

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- By calling the Customer Service Center at 1-855-355-5777

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- By mail at:
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PO Box 11729
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- By fax: 1-855-900-5557

Summary

The notices of decision issued regarding the 2017 coverage year are MODIFIED to reflect that you and your family should have been found eligible to enroll in coverage through NYSOH at least as early as January 1, 2017, and that NYSOH improperly prevented your family from enrolling in a plan.

Your case is RETURNED to NYSOH to immediately contact you to determine whether you want the start date of your family's coverage to be backdated.

PLEASE NOTE: NYSOH's failure to properly enroll your family in coverage as of January 1, 2017 may have left your family without insurance coverage for part of the 2017 coverage year. During the hearing, you testified that you are concerned about receiving a tax penalty because of being without coverage. Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. You might qualify for a health coverage exemption in 2017 if you did not have health coverage while you were waiting for an appeal decision about coverage eligibility or savings and your appeal was eventually successful.

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

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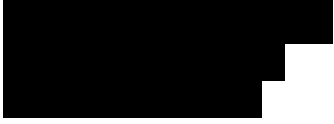
Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word "pending" in column "c" and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

Legal Authority

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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 srε wo, frε 1-855-355-5777. ye&εtumi 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.