



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

### Notice of Decision

Decision Date: June 7, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005090

[REDACTED]

Dear [REDACTED],

On January 14, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 9, 2014, January 24, 2015, July 31, 2015, and September 5, 2015 eligibility determinations.

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 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).

This page intentionally left blank.



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

## Decision

Decision Date: June 7, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005090



## Issues

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

Was your appeal of the December 9, 2014, January 24, 2015, July 31, 2015, and September 5, 2015 eligibility determinations, requesting a change in your eligibility for cost-sharing reductions back to January 1, 2015, timely filed?

Did NY State of Health (NYSOH) determine that you were eligible for the correct level of cost-sharing reductions in the September 5, 2015 eligibility determination?

## Procedural History

On December 10, 2014, NYSOH issued an eligibility determination stating that you and your spouse were eligible to receive up to \$610.00 per month in advance payments of the premium tax credit (APTC), as well as cost-sharing reductions (CSR) and your children were eligible to enroll in a plan through Child Health Plus, based on estimated annual household earnings of \$39,000.00. The level of CSR for which you were eligible was not specified.

On January 24, 2015, NYSOH issued an eligibility determination based upon your updated application for financial assistance on January 23, 2015. That determination found you and your spouse eligible to receive APTC in the amount of \$483.00 per month, as well as CSR, effective March 1, 2015. The determination was based upon your reported household income of \$49,920.00. The level of CSR for which you were eligible was not specified.

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).

Also on January 24, 2015, NYSOH issued an enrollment confirmation notice confirming enrollment in a silver level health plan for you and your spouse, with a premium responsibility of \$560.06. Your coverage could start as early as January 1, 2015 if you paid the first month's premium.

You updated your account on July 30, 2015 and on July 31, 2015 NYSOH issued an eligibility determination notice finding you and your spouse eligible to receive up to \$482.00 per month in APTC, as well as CSR, effective September 1, 2015. The notice stated that the determination was based upon a reported annual household income of \$50,000.00. The level of CSR was not specified.

On July 31, 2015, an enrollment confirmation notice was issued confirming your enrollment in a silver level health plan.

Your account was again updated on September 4, 2015.

On September 5, 2015, NYSOH issued an eligibility determination notice finding you and your spouse eligible to receive up to \$579.00 per month in APTC, as well as CSR, effective October 1, 2015. This determination was based upon an annual household income of \$41,780.00. The level of CSR was not specified.

Also on September 5, 2015, an enrollment confirmation notice was issued confirming enrollment for you and your spouse in a silver level health plan and receipt of APTC effective back to January 1, 2015.

On November 4, 2015, you contacted NYSOH's Account Review Unit and appealed the level of CSR you were deemed eligible to receive for 2015.

On January 14, 2016, you had a telephone hearing with a Hearing Officer from the NY State of Health Appeals Unit. The record was developed during the hearing and closed at the end of the proceeding.

## **Findings of Fact**

- 1) You testified that you will be filing your 2015 taxes as head of household.
- 2) You will be claiming two dependents on your 2015 taxes.
- 3) The application that was submitted on December 9, 2014 listed an annual estimated household income of \$39,000.00, for a family that included you, your spouse, and your two children.
- 4) The application that was submitted on January 23, 2015 listed an annual household income of \$49,920.00 you estimated you would receive from your self-employment. Your family still consisted of four people.

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).

- 5) The application that was submitted on July 30, 2015 listed an annual estimated household income of \$50,000.00. Your family still consisted of four people.
- 6) On August 12, 2015, you first contacted NYSOH to complain about a change in the level of your deductible.
- 7) Your updated application submitted on September 4, 2015, listed an expected annual income of \$41,780.00, again with a family of four.
- 8) You contacted NYSOH again about the change in your deductible on October 22, 2015.
- 9) You testified that you live in Nassau County.
- 10) You testified that you selected and enrolled in a silver level health plan but that the premium responsibility was too high, and your annual deductible was too high.
- 11) You are seeking a lower deductible and for your CSR level to be applied back to January 1, 2015.
- 12) As of January 1, 2016, you, [REDACTED] have been eligible for the Essential Plan, and were no longer eligible for APTC. You had removed your spouse from your NYSOH account, although you stated you were still married, and removed his income from your application as well.

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

## **Applicable Law and Regulations**

### Timely Appeals

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)).

### Cost-Sharing Reductions

The FPL “for the benefit year for which coverage is requested” (45 CFR § 155.305(g)(1)(i)(C)) on the date of the relevant applications was the 2015 FPL, which was \$24,250.00 for a four-person household is (80 Federal Register 3236, 3237)

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).

NYSOH directs insurers to offer three variations of silver-level qualified health plans, in addition to a full-cost plan, which provide varying levels of financial assistance, called “cost-sharing reductions” (CSR), using the following categories:

(1) Those individuals with an annual household income that is at least 100% but less than or equal to 150 % of the FPL,

(2) Those individuals with an annual household income that is greater than 150% but less than or equal to 200% of the FPL, and

(3) Those individuals with an annual household income that is greater than 200 but less than or equal to 250% of the FPL (see 45 CFR § 155.305(g)(2)).

(The categories for policies that cover more than one person are slightly different (45 CFR § 155.305(g)(3)), but those categories are not relevant in the current case).

Each category listed above gives a different level of CSR, so that you will receive varying financial assistance based on the level of your income (see 45 CFR § 155.420).

These subsidies reduce the deductibles, copayments, coinsurance, and other out-of-pocket charges that people eligible for cost-sharing reductions pay when they use benefits covered by their health plan.

#### Mid-benefit Year Change in Level of Cost-Sharing Reductions

If an individual’s eligibility for CSR changes in the middle of a benefit year and that individual stays in the same qualified health plan (QHP), the health plan must ensure that any cost-sharing already paid by the individual that year is taken into account when the level of future cost sharing that year is calculated (45 CFR § 156.425(b)).

### **Legal Analysis**

The first issue under review is whether your appeal was timely with regard to the December 9, 2014, January 24, 2015, July 31, 2015, and September 5, 2015 eligibility determinations.

For an appeal to be valid, it must be filed within 60 days of the relevant eligibility determination.

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 first contacted NYSOH regarding the change in your deductible on August 12, 2015; there was another contact on October 22, 2015. The first call occurred more than 60 days after the December 9, 2014 and January 24, 2015 eligibility determinations, but within 60 days of the July 31, 2015 eligibility determination. Similarly, the October 22, 2015 contact was within 60 days of the September 5, 2015 eligibility determination.

Therefore, there has been no valid timely appeal of the December 9, 2014 and January 24, 2015 eligibility determination notices and your appeal with regard to any findings in those two eligibility determinations is DISMISSED.

However, your appeals are timely with regard to the July 31, 2015 and the September 5, 2015 eligibility determinations, and they will be considered.

The second issue is whether NYSOH determined that you were eligible for the correct level cost-sharing reductions in the July 31, 2015 and September 5, 2015 eligibility determinations.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL; however, the level of reductions for which you may be eligible varies between three different levels, according to how much below 250% of the FPL your income is. NYSOH therefore directs issuers to offer three variations of silver level qualified health plans correlating to these three levels.

Your application that was submitted on January 23, 2015, the last application completed before the eligibility determinations currently under review, listed an annual household income of \$49,920.00. This represents 205.86% of the relevant FPL for 2015.

Since a household income of \$49,920.00 is 205.86% of the applicable FPL, NYSOH correctly found you to be eligible for CSR effective March 1, 2015; more specifically, you would be entitled to the third level of CSR specified in 45 CFR § 155.305(g)(2).

After January 23, 2015, you next completed an update to your application on July 30, 2015. In that application, you listed an estimated annual household income of \$50,000.00, for a four-person household. This represents 206.19% of the applicable FPL, and your eligibility for the third level of CSR would remain the same.

Your next change of application was submitted on September 4, 2015. In that application, you listed annual household earnings of \$41,780.00, again for a household of four. This represents 172.29% of the applicable FPL, and your eligibility for the third level of CSR changed to the second level of CSR, effective October 1, 2015. This would be more favorable for you.

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).

Therefore, the Appeals Unit finds that prior to October 1, 2015, you were eligible for the third level of CSR, as provided for by 45 CFR § 155.305(g)(2)(iii). After that date, your eligibility improved to the second level of CSR.

The particulars of the terms of coverage regarding covered medical services, treatment, prescriptions, and the amount of co-pays, deductibles, and out of pocket costs for which you are responsible for are set by the individual plans and, are not reviewable by NYSOH Appeals Unit. In other words, while the Appeals Unit can confirm the level of CSR to which you are entitled, it cannot determine whether your particular plan meets the requirements of that level.

Additionally, when your level of CSR changes mid-year, a plan is required to consider how much in cost-sharing you have already paid for that year. After October 1, 2015, you should not have received a bill for higher medical expenses; it may be that when your plan changed your CSR status, they inadvertently re-started your annual deductible as if it was a new enrollment.

Your case will be RETURNED to NYSOH to confirm that your enrollment subsequent to October 1, 2015 was in a plan confirmed as a 45 CFR § 155.305(g)(2)(iii) plan, and to facilitate any necessary correction in the application of your deductible for 2015.

## **Decision**

There was no timely appeal of the December 9, 2014 and January 24, 2015 eligibility determination notices and therefore your appeal with regard to any findings in those two eligibility determinations is DISMISSED.

However, your appeals are timely with regard to the July 31, 2015 and the September 5, 2015 eligibility determinations.

The July 31, 2015 and the September 5, 2015 eligibility determinations are AFFIRMED, in that they correctly found that you were eligible for cost-sharing reductions.

Your case will be RETURNED to NYSOH for verification of your CSR levels for 2015 and to facilitate any necessary correction in the application of your deductible for 2015.

**Effective Date of this Decision:** June 7, 2016



## **How this Decision Affects Your Eligibility**

You were eligible for the third level of cost-sharing reductions until October 1, 2015, at which time your eligibility changed to the second level. Your case is being returned to NYSOH for an investigation of the application of cost-sharing reductions.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services 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 U.S. Department of Health and Human Services. 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 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

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).

## **Summary**

There was no timely appeal of the December 9, 2014 and January 24, 2015 eligibility determination notices and therefore your appeal with regard to any findings in those two eligibility determinations is DISMISSED.

However, your appeals are timely with regard to the July 31, 2015 and the September 5, 2015 eligibility determinations.

The July 31, 2015 and the September 5, 2015 eligibility determinations are AFFIRMED, in that they correctly found that you were eligible for cost-sharing reductions.

Your case will be RETURNED to NYSOH for verification of your CSR levels for 2015 and to facilitate any necessary correction in the application of your deductible for 2015.

You were eligible for the third level of cost-sharing reductions until October 1, 2015, at which time your eligibility changed to the second level. Your case is begin returned to NYSOH for an investigation of the application of cost-sharing reductions.

## **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545.

**A Copy of this Decision Has Been Provided To:**

