



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

Notice of Decision

Decision Date: May 31, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005150

[REDACTED]

Dear [REDACTED],

On January 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's August 4, 2015 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

Decision Date: May 31, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005150

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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 were no longer eligible for financial assistance through NYSOH, effective September 1, 2015?

Procedural History

On December 2, 2014, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive advance payments of the premium tax credit (APTC) of up to \$432.00 per month and, if you selected a silver-level plan, cost-sharing reductions (CSR), effective January 1, 2015.

On December 9, 2014, NYSOH issued a notice confirming the enrollment of you and your spouse in a qualified health plan, with a total premium responsibility was \$465.14, after applying \$431.00 per month in APTC. The notice also stated that provided your first month's premium was received, coverage for you and your spouse could begin as early as January 1, 2015.

On August 3, 2015, NYSOH received an updated application which indicated that your enrollment in Medicare would begin on September 1, 2015.

On August 4, 2015, NYSOH issued an eligibility redetermination notice stating, in relevant part, that you, [REDACTED], were no longer eligible for APTC because NYSOH determined you are already enrolled in or eligible for a public insurance

program such as Medicare. This eligibility determination was effective September 1, 2015.

On August 8, 2015, NYSOH issued a disenrollment notice confirming that your coverage under your qualified health plan would end effective August 31, 2015. This notice was issued because you were no longer eligible to enroll in health insurance through NYSOH.

On October 26, 2015, NYSOH received an updated application that again indicated that your enrollment in Medicare would begin on September 1, 2015.

On October 27, 2015, NYSOH issued an eligibility redetermination notice based on the information contained in the October 26, 2015 application. It stated that you were not qualified to enroll through NY State of Health since you were already enrolled in or eligible for a public insurance program such as Medicare.

On November 11, 2015, you contacted NYSOH's Account Review Unit and requested an appeal of your eligibility for APTC and CSR between January 1, 2015 and August 31, 2015.

On January 21, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: (1) a Social Security Administration Notice of Award reflecting the September 1, 2015 start date of your Medicare coverage, (2) copies of statements from your insurance carrier from January to August 2015, (3) copies of cancelled checks reflecting payment of those insurance carrier invoices for coverage from January to August 2015, and (4) a record from your insurance carrier reflecting receipt of those amounts, or other reasonably acceptable documentation. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

That same day, you provided the above referenced documents to the Appeals Unit via facsimile.

Accordingly, the record was closed on January 21, 2016.

Findings of Fact

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

- 1) You and your spouse were found eligible for an APTC of up to \$432.00 per month and, if you selected a silver-level plan, CSR.

- 2) You and your spouse enrolled in a qualified health plan with coverage beginning January 1, 2015.
- 3) You testified, and the record reflects, that you updated your application on August 3, 2015. You testified that you spoke with a NYSOH representative to inform him that your Medicare benefits would begin on September 1, 2015, which coincided with you turning 65 years of age.
- 4) On August 4, 2015, you were found ineligible for financial assistance, effective September 1, 2015. However, you testified that not only was your financial assistance eliminated at that time, all APTC and CSR amount paid by your insurance carrier were retracted for the period between January 1, 2015 and August 31, 2015.
- 5) You testified that you believed that the insurance carrier retracted all payments made in connection with your APTC and CSR because a NYSOH representative erroneously stated that the coverage start date of your Medicare was January 1, 2015, rather than September 1, 2015.
- 6) You testified that you were seeking to have your APTC and CSR amounts applied to your coverage between January 1, 2015 and August 31, 2015.

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

Applicable Law and Regulations

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

Minimum Essential Coverage

Minimum essential coverage includes most government-sponsored insurance plans such as Medicaid, Medicare, CHIP, Tricare, Veterans' Health Coverage, and eligible employer-sponsored insurance (26 USC §§ 36B(c)(2)(B) and 5000A(f)).

According to 26 USC § 5000A, which is part of the Internal Revenue Code, various government-sponsored plans provide minimum essential coverage, including the Medicare program under part A of title XVIII of the Social Security Act (26 USC § 5000A(f)(1)(A)(i), 42 USCS §§ 1395c et seq.).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

Legal Analysis

The only issue under review is whether NYSOH correctly found that you were no longer eligible for financial assistance to help pay for the cost of health insurance, effective September 1, 2015.

To be eligible for APTC, a person must not be eligible for minimum essential coverage outside of NYSOH. Minimum essential coverage includes Medicare benefits.

Your application submitted on August 3, 2015 reflects that you became eligible for Medicare coverage as of September 1, 2015. You testified that that this was correct, and subsequently provided a Notice of Award issued to you by the Social Security Administration to corroborate your testimony.

You further testified, however, that not only was your eligibility for APTC and CSR terminated as of August 31, 2015, but that your insurance carrier has retracted all payments made by the health plan between January 1, 2015 and August 31, 2015. You testified that this was due a NYSOH representative erroneously indicating in your application that your Medicare coverage began as of January 1, 2015, rather than September 1, 2015.

Since you became enrolled in Medicare as of September 1, 2015, you were ineligible for APTC at that time.

CSR is available to a person who is eligible to receive APTC and has an annual household income that does not exceed 250% of the FPL. Since you are not eligible for APTC, you are also not eligible for CSR, as of September 1, 2015.

Since the available information indicates that you are not eligible for APTC or cost-sharing reductions as of September 1, 2015, the August 4, 2015 eligibility determination must be AFFIRMED.

However, while the Appeals Unit has determined that the August 4, 2015 eligibility determination notice is affirmed, this finding has no effect on the eligibility of you or your spouse for APTC and CSR between January 1, 2015 and August 31, 2015, as reflected in the December 2, 2014 eligibility determination.

Therefore, your case is RETURNED to NYSOH to facilitate with your insurance carrier the correct application of any APTC and CSR amounts due to you between January 1, 2015 and August 31, 2015, and to resolve any residual billing issues, as necessary.

Decision

The August 4, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to facilitate with your insurance carrier the application of any APTC and CSR amounts due to you between January 1, 2015 and August 31, 2015, and to resolve any residual billing issues, as necessary.

Effective Date of this Decision: May 31, 2016

How this Decision Affects Your Eligibility

Your eligibility for financial assistance through NYSOH ended effective August 31, 2015.

NYSOH will work with your insurance carrier to apply the appropriate APTC and CSR amounts due to you and your spouse between January 1, 2015 and August 31, 2015, and to resolve any residual billing issues, as necessary.

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

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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

Summary

The August 4, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to facilitate with your insurance carrier the application of any APTC and CSR amounts due to you between January 1, 2015 and August 31, 2015, and to resolve any residual billing issues, as necessary.

Your eligibility for financial assistance through NYSOH ended effective August 31, 2015.

NYSOH will work with your insurance carrier to apply the appropriate APTC and CSR amounts due to you and your spouse between January 1, 2015 and August 31, 2015, and to resolve any residual billing issues, as necessary.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

