



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

Notice of Decision

Decision Date: April 15, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005392, AP000000005477

[REDACTED]

Dear [REDACTED],

On February 16, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health’s November 7, 2015 eligibility determination.

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: April 15, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005392, AP000000005477



Issue

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

Did New York State of Health (NYSOH) properly determine that you were not eligible for advance payments of the premium tax credit and cost-sharing reductions during the month of December 2015?

Procedural History

On December 20, 2014, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible to receive up to \$274.00 per month in advance payments of the premium tax credit (APTC), as well as cost-sharing reductions (CSR), effective January 1, 2015. The notice also directed you to provide income documentation prior to March 21, 2015 or you might lose your eligibility for health insurance or for financial assistance.

On February 5, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a silver level qualified health plan. This notice was returned as undeliverable on February 25, 2015.

On October 24, 2015, the Marketplace issued a notice stating that it was time to renew your health insurance.

On November 2, 2015, the December 20, 2014 notice regarding your eligibility was returned to NYSOH as "Not Deliverable as Addressed" by the U.S. Post Office.

On November 7, 2015, NYSOH issued a notice of eligibility determination stating that you were newly eligible to purchase a qualified health plan through NYSOH only at full cost, effective December 1, 2015. The notice further stated that you were not eligible for APTC because NYSOH sent you a notice by U.S. mail to the mailing address provided in your account that was returned as undeliverable. You were not eligible for CSR because you were not eligible to receive APTC.

On December 1, 2015 and December 8, 2015, you spoke with NYSOH's Account Review Unit and appealed the November 7, 2015 eligibility determination insofar as you were eligible to receive a tax credit and CSR in December 2015.

On February 10, 2016, you were scheduled to appear for a telephone hearing. A Hearing Officer called you and you requested to adjourn the hearing to a later date. You waived your right to formal notice of the adjourned hearing through sworn testimony.

On February 16, 2016, you had your adjourned 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 support the following findings of fact:

- 1) You testified that you have permanently resided in the State of New York for the past two years.
- 2) The record reflects that the mailing address on your NYSOH account has always been listed as [REDACTED] and notices have been addressed as such. You testified that you have been receiving your mail at this address for the past two years.
- 3) Your account shows that your mailing address was not modified to include [REDACTED] until December 8, 2015.
- 4) The record indicates that your household was without an advance payment of the premium tax credit in December 2015.
- 5) You testified that in December 2015 you had to pay your full premium amount in addition to thousands of dollars, in order to keep your insurance active in that month.

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

Applicable Law and Regulations

State Residency Requirement

To be eligible for enrollment in a qualified health plan (QHP) and eligible to receive an advance premium tax credit (APTC) through NYSOH, an applicant must be a resident of New York State (45 CFR § 155.305(a)(3)), (f)(1)(ii)(A).

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in a QHP, including verification of the applicant's attestation of residency (45 CFR § 155.315(a), (d)).

If an applicant attests to residency in New York State, and NYSOH is unable to resolve inconsistencies with the attestation provided by the applicant, NYSOH must provide the applicant notice of the inconsistency and a period of 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant (45 CFR § 155.315(f)(2)).

During the 90 day period, NYSOH must proceed with all other elements of the eligibility determination using the applicant's attestation and provide enrollment in a QHP and ensure that APTC and cost-sharing reductions are provided on behalf of an applicant who is otherwise eligible (45 CFR § 155.315 (f)(4)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were not eligible for an advance payment of the premium tax credit during December 2015.

NYSOH is required to determine whether individuals are eligible to enroll in coverage and obtain advance premium tax credits through NYSOH, and must confirm, among other things, that their residency status is satisfactory.

You testified that you permanently reside in the State of New York. The record reflects that the mailing address on your NYSOH account has always been listed as [REDACTED] and all notices have been addressed as such. You testified that you have been receiving your mail at this address for the past two years.

The record indicates that a notice that was sent to you was returned to NYSOH as "Not Deliverable as Addressed" by the U.S. Post Office on November 2, 2015. The mailing address on the returned notice was [REDACTED]; this notice was purportedly mailed to you on December 20, 2014.

On November 7, 2015, NYSOH issued a notice of eligibility determination that stated in part that you were not eligible for APTC because NYSOH sent you a notice by U.S. mail to the mailing address provided in your account that was returned as undeliverable and you were not eligible for CSR because you were not eligible to receive APTC.

If NYSOH cannot verify an individual's residency, it must send the individual a notice alerting them of the inconsistency and a period of 90 days from the date that notice is received to resolve the inconsistency. During the 90 days NYSOH must maintain an applicant's enrollment in their qualified health plan and provide advance premium tax credits and cost-sharing reductions if the applicant is otherwise eligible.

The record, as established, indicates that NYSOH erred in discontinuing your advance premium tax credits as of November 30, 2015. NYSOH was obligated to send you a formal notice that there was an inconsistency with your address and provide you with 90 days to correct the inconsistency, and it was required to continue your eligibility during those 90 days. NYSOH failed to comply with those requirements.

Therefore, the November 7, 2015 eligibility determination stating that you were not eligible for APTC because NYSOH sent you information but that information was returned to NYSOH as undeliverable and that you were not eligible for CSR because you were not eligible for APTC, was improper and is RESCINDED.

Decision

The November 7, 2015 eligibility determination is RESCINDED.

Your case is RETURNED to NYSOH to ensure that your \$274.00 APTC and level of CSR is restored for the month of December 2015 and to facilitate any reimbursement that may be available to you through your health care provider.

Effective Date of this Decision: April 15, 2016

How this Decision Affects Your Eligibility

You did not receive proper notice from NYSOH that there was an inconsistency in your account any inconsistency.

You were eligible for advance premium tax credits and cost-sharing reductions during December 2015.

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 decision has no effect on your eligibility as of January 1, 2016.

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

Summary

The November 7, 2015 eligibility determination is **RESCINDED**.

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Your case is RETURNED to NYSOH to ensure that your \$274.00 APTC and level of CSR is restored for the month of December 2015 and to facilitate any reimbursement that may be available to you through your health care provider.

You did not receive proper notice from NYSOH that there was an inconsistency in your account any inconsistency.

You were eligible for advance premium tax credits and cost-sharing reductions during December 2015.

This decision has no effect on your eligibility as of January 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

