



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

## Notice of Decision

Decision Date: April 29, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005809

[REDACTED]

Dear [REDACTED],

On March 30, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's November 5, 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 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: April 29, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005809



## 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 not eligible for advance payments of the premium tax credit and cost-sharing reductions during the month of December 2015?

## Procedural History

On September 17, 2015, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$306.00 per month in advance payments of the premium tax credit (APTC), as well as cost-sharing reductions.

Also on September 17, 2015, an enrollment confirmation notice was issued confirming your enrollment in a Silver level health plan with a premium responsibility of \$50.15 per month effective October 1, 2015.

On October 28, 2015, the September 17, 2015 notices regarding your eligibility and enrollment were returned to NYSOH as "Unable to Forward/For Review" by the U.S. Post Office.

On November 5, 2015, an eligibility determination notice was issued stating that you were newly eligible to purchase a qualified health plan at full cost effective December 1, 2015. The notice further explained that you were not eligible to receive APTC because notices about your eligibility were returned to NYSOH as undeliverable. You were further found ineligible to receive cost sharing reductions because you were determined ineligible to receive APTC.

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On December 28, 2015, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it ended your advance premium tax credit for the month of December 2015.

On March 30, 2016, 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.

## **Findings of Fact**

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

- 1) You are seeking insurance for yourself.
- 2) Your NYSOH account indicates that you receive notices from NYSOH via regular mail. You testified that this was correct.
- 3) You testified that your mailing address for NYSOH has always been [REDACTED].
- 4) You testified that you resided in New York during the entire period of time for 2015.
- 5) Two notices dated September 17, 2015, were returned as undeliverable to NYSOH on October 28, 2015. The notices address was your stated address of [REDACTED].”
- 6) You testified that you did not know you needed to renew your application until December 15, 2015 when you had contacted your health plan to explain the mailing address issues you were having with the post office.
- 7) You testified that you updated the information in your NYSOH account on December 15, 2015. That day you also enrolled into the Essential Plan for January 1, 2016.
- 8) You testified you would like the APTC in the amount of \$306.00 per month be applied to your premium responsibility for the month of December 2015.

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

## **Applicable Law and Regulations**

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## 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 APTC and cost-sharing reductions during the month of December 2015.

NYSOH is required to determine whether individuals are eligible to enroll in coverage and financial assistance through NYSOH, and must confirm, among other things, that their residency status is satisfactory.

You testified that you resided in New York during the entire period of time for 2015. You testified that your mailing address for NYSOH has always been [REDACTED]

The record indicates that two notices dated September 17, 2015, were returned as undeliverable to NYSOH on October 28, 2015. The notices were address to your stated address of [REDACTED]

On November 5, 2015, an eligibility determination notice was issued stating that you were newly eligible to purchase a qualified health plan at full cost effective December 1, 2015. The notice further explained that you were not eligible to receive APTC because notices about your eligibility were returned to NYSOH as

undeliverable. You were further found ineligible to receive cost sharing reductions because you were determined ineligible 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, NYSOH's November 5, 2015 eligibility determination notice finding you ineligible for APTC, ineligible for cost sharing reductions because you were ineligible for APTC, because NYSOH sent you information but that information was returned as undeliverable was improper and is RESCINDED.

## **Decision**

The November 5, 2015 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to ensure your eligibility for \$306.00 per month in APTC and cost-sharing reductions are applied to your premium responsibility for the months of October, November, and December 2015.

**Effective Date of this Decision:** April 29, 2016

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

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

You were eligible to receive advance premium tax credits, and cost-sharing reductions for the months of October, November, and December 2015.

This decision does not change your eligibility as of January 1, 2016.

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).

## **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 5, 2015 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to ensure your eligibility for \$306.00 per month in APTC and cost-sharing reductions are applied to your premium responsibility for the months of October, November, and December 2015.

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

You were eligible to receive advance premium tax credits, and cost-sharing reductions for the months of October, November, and December 2015.

This decision does not change your eligibility as of January 1, 2016.

## **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.



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

