



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

## Notice of Decision

Decision Date: July 29, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006101

[REDACTED]

Dear [REDACTED]

On June 14, 2016, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health's January 9, 2016 eligibility determination notice and the February 13, 2016 notice of enrollment.

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: July 29, 2016

NY State of Health Account ID: [REDACTED]  
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## Issues

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

Did NY State of Health (NYSOH) properly determine that you and your spouse were eligible to receive up to \$315.00 per month in advance payments of the premium tax credit, effective February 1, 2016?

Did NYSOH properly determine that your health insurance coverage with CDPHP began as of March 1, 2016, rather than February 1, 2016?

## Procedural History

On November 16, 2014, NYSOH redetermined your eligibility based on the information contained in your account as of November 6, 2014. A preliminary eligibility determination was prepared based on that redetermination, stating that you and your spouse were eligible to receive up to \$372.19 per month in advance payments of the premium tax credit (APTC), effective February 1, 2016. During the 2015 plan year, you and your spouse were enrolled in a plan using at least a portion of the APTC for which you were eligible.

On December 15, 2015, you updated your account.

On December 16, 2015, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were eligible to receive up to \$315.00 per month in APTC. This eligibility was effective January 1, 2016. You selected and enrolled in a plan that would go into effect on January 1, 2016.

On January 9, 2016, NYSOH received an updated application for health insurance, which indicated you and your spouse were expecting another child. That day, a preliminary eligibility determination was prepared with regard to that application, stating that you and your spouse were eligible for an advance premium tax credit of up to \$315.00 per month, effective February 1, 2016.

Also on January 9, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination.

On January 10, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were eligible to receive up to \$315.00 per month in APTC. This eligibility was effective February 1, 2016. Your enrollment was not changed at that time.

On January 15, 2016, you changed your enrollment.

On January 16, 2016, NYSOH issued a disenrollment notice, stating that your request to end your insurance coverage with MVP Health Care (MVP) was received on January 15, 2016. The notice confirmed that your coverage with MVP would end effective January 31, 2016.

Also on January 16, 2016, NYSOH issued a letter confirming the enrollment of you and your spouse in CHPHP as your new health plan on January 8, 2016, with a monthly premium responsibility of \$619.26, after your APTC of \$315.00 was applied. The notice stated that coverage with CDPHP would begin February 1, 2016.

On January 20, 2016, you requested Aid to Continue to reinstate your tax credit you were receiving during 2015 during the pendency of the appeal.

On January 28, 2016, NYSOH redetermined your eligibility based on the information contained in your account as of January 8, 2016.

On January 29, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were eligible to receive up to \$372.19 per month in APTC and, if you selected a silver-level plan, newly eligible for cost-sharing reductions (CSR). This increased APTC amount was due to NYSOH granting of your request for your previous aid to continue (ATC), and was effective February 1, 2016.

Also on January 29, 2016, NYSOH issued a cancellation notice confirming receipt of your request to cancel your insurance coverage with CDPHP as of January 28, 2016. The notice also stated that you would not have coverage with CDPHP as of February 1, 2016.

Finally, on January 29, 2016, NYSOH issued a letter confirming the enrollment of you and your spouse in MVP as your QHP on January 28, 2016, with a monthly premium responsibility of \$339.00, after your APTC of \$372.20 was applied. The notice stated that coverage with CDPHP would begin March 1, 2016. This was also apparently due to your request ATC.

On February 13, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were eligible to receive up to \$493.08 per month in APTC and, if you selected a silver-level plan, eligible for cost-sharing reductions. You also qualified to select a plan outside of the open enrollment period for 2016. This eligibility determination was effective March 1, 2016.

Also on February 13, 2016, NYSOH issued a disenrollment notice confirming receipt of your request to cancel you insurance coverage with MVP as of February 12, 2016. The notice also stated that you would not have coverage with MVP as of February 29, 2016.

Finally, on February 13, 2016, NYSOH issued a letter confirming the enrollment of you and your spouse in CDPHP as your QHP on February 12, 2016, with a monthly premium responsibility of \$562.07, after \$372.19 of your \$493.08 of APTC was applied. The notice stated that coverage with CDPHP would begin March 1, 2016. However, also on February 13, 2016, NYSOH approved a backdating of your coverage through CDPHP to February 1, 2016.

On June 14, 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) On January 9, 2016, you and your spouse were found eligible by NYSOH for an APTC of up to \$315.00 per month, and ineligible for CSR. On that same date, you contacted NYSOH to appeal that determination insofar as you were seeking a greater level of APTC.
- 2) You testified that you were no longer seeking to challenge the January 9, 2016 eligibility determination, and wanted to withdraw your appeal with respect to that issue.
- 3) Your spouse testified that you were seeking to seek a reimbursement of the premium paid to CDPHP during the month of February 2016.

- 4) During the 2015 plan year, you and your spouse were found eligible for an APTC of up to \$372.19 and, if you selected a silver-level plan, eligible for CSR.
- 5) You requested Aid to Continue on or about January 20, 2015 to reinstate the APTC you and your spouse were receiving during 2015 for the pendency of the appeal.
- 6) The eligibility of you and your spouse was redetermined on January 28, 2016. You and your spouse were again found eligible for up to \$372.19 of APTC and eligible for CSR, beginning March 1, 2016. However, coverage for you and your spouse with CDPHP was terminated as of February 1, 2016, and you were enrolled in MVP as of February 1, 2016.
- 7) The record reflects that your MVP coverage continued until February 29, 2016, and were reenrolled in CDPHP effective March 1, 2016.
- 8) You testified that you were advised by a NYSOH representative that you should pay the premium for CDPHP for coverage during the month of February 2016 even there was an open question as to your coverage through them that month, so that you would not get disenrolled going forward in 2016.
- 9) You testified that during late January or early February 2016 you were told by both CDPHP and NYSOH that you did not have coverage through CDPHP for the month of February 2016, and that your coverage with them would begin March 1, 2016.
- 10) You testified that you began paying CDPHP for coverage beginning February 2016, and that the premium amount was approximately \$600.00.
- 11) You testified that it was not until March or April of 2016 that CDPHP told you that their internal records reflected you as being covered by them during the month of February 2016.
- 12) You testified that CDPHP acknowledged receiving the premium for coverage during the month of February 2016. You further testified that you delayed all of your scheduled appointments to March 2016 because of the outstanding issue as to whether or not you were covered during that month.
- 13) Your spouse testified that you were seeking a total reimbursement of the premium from CDPHP for the month of February 2016 since you were unable to use your insurance at that time.

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

## **Applicable Law and Regulations**

### Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15<sup>th</sup> of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of advance premium tax credit (APTC) for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

### Enrollment in a Qualified Health Plan

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 first issue is whether NYSOH properly determined that you and your spouse eligible for an APTC of up to \$315.00 per month and ineligible for CSR.

You testified that you no longer you were no longer seeking to challenge the January 9, 2016 eligibility determination with respect to you and your spouse having been found eligible for and APTC of up to \$315.00 per month and ineligible for CSR. Therefore, NYSOH Appeals Unit will not be reviewing this issue at this time.

The second issue, which you identified at the hearing, is whether NYSOH properly determined that your coverage with CDPHP should have started as of March 1, 2016, rather than February 1, 2016.

The record shows that the original nature of the appeal was to challenge the level of APTC you were receiving during 2016. On or about January 20, 2016, you were granted Aid to Continue for your 2015 APTC award to be applied going forward for the pendency of the appeal in 2016. However, in addition to applying the \$372.19 APTC amount to your financial assistance, your coverage with MVP was reinstated as of February 1, 2016, and your insurance coverage with CDPHP was cancelled, which was not what you wanted.

The record also shows that this error was corrected on or about February 13, 2016, and your coverage with CDPHP was reinstated. Coverage for you and your spouse was backdated to February 1, 2016. However, you credibly testified that even though there was a question as to whether you coverage with CDPHP would begin February 1, 2016, you paid the premium to CDPHP for coverage during the month of February 2016 at the recommendation of a NYSOH representative to ensure you would not be inadvertently disenrolled going forward.

You testified that you were not notified by either NYSOH or CDPHP that your coverage with CDPHP had been reinstated to begin February 1, 2016 until sometime in March or April 2016. By that point, you had already delayed all your February 2016 appointments.

The credible evidence shows that you were not timely notified of the backdating of your coverage under CDPHP to February 1, 2016, so you were unable to use your coverage for that month.

Therefore, it is found that the start date of your coverage is changed to March 1, 2016. The February 13, 2016 notice of enrollment confirming that coverage for you and your spouse through CDPHP began as of March 1, 2016 is AFFIRMED, and the coverage override performed by NYSOH on or about February 13, 2016 to backdate your coverage to February 1, 2016 is voided.

Your case is RETURNED to NYSOH to effectuate the changes noted above, and to facilitate with CDPHP a reimbursement of the premium paid for February 2016, if any.

## **Decision**

The NYSOH Appeals Unit will not be reviewing this your appeal with respect to the January 9, 2016 eligibility determination notice at this time.

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).



The February 13, 2016 notice of enrollment is AFFIRMED.

Your case is RETURNED to NYSOH to effectuate the changes noted above, and to facilitate with CDPHP a reimbursement of the premium paid for February 2016, if any.

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

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

Coverage for you and your spouse with CDPHP began as of March 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 NYSOH Appeals Unit will not be reviewing this your appeal with respect to the January 9, 2016 eligibility determination notice at this time.

The February 13, 2016 notice of enrollment is AFFIRMED.

Coverage for you and your spouse with CDPHP began as of March 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes noted above, and to facilitate with CDPHP a reimbursement of the premium paid for February 2016, if any.

## **Legal Authority**

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

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

