



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

Notice of Decision

Decision Date: May 20, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006241

[REDACTED]

Dear [REDACTED],

On April 27, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 5, 2016 eligibility determination and enrollment confirmation notices.

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 20, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006241



Issue

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

Did NY State of Health properly determine that your receipt of advance payments of the premium tax credit was effective February 1, 2016?

Procedural History

On October 24, 2015, NY State of Health (NYSOH) issued a notice that it was time to renew your health insurance for 2016. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2015, or you might lose the financial assistance you were currently receiving.

No updates were made to your account by December 15, 2015.

On December 21, 2015, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan (QHP) at full cost, effective January 1, 2016. The notice further stated that you were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame.

On December 24, 2015, NYSOH issued an enrollment confirmation notice, confirming your reenrollment in an Excellus BlueCross BlueShield Bronze Select NS INN Dep25 Individual QHP with a monthly premium of \$394.49.

On January 4, 2016, NYSOH received your updated application for health insurance.

On January 5, 2016, NYSOH issued a notice of eligibility redetermination stating that you were newly eligible to receive up to \$196.00 per month in advance payment of the premium tax credits (APTC) and, if you selected a silver-level qualified health plan, for cost-sharing reductions (CSR). This eligibility was effective February 1, 2016.

Also on January 5, 2016, NYSOH issued a letter confirming your enrollment in an Excellus BlueCross BlueShield Bronze Standard ST INN Dep25 Individual QHP with a monthly premium responsibility of \$231.24, after your APTC of \$196.00 was applied, effective February 1, 2016.

On January 15, 2016, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it began your financial assistance eligibility on February 1, 2016 and not January 1, 2016.

On April 27, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and was left open at the end of the hearing until May 18, 2016 so that you could submit proof of payment of your January 2016 premium. On April 27, 2016, you faxed an eight page document, including the cover page, to the NYSOH Appeals Unit. The record is now closed.

Findings of Fact

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

- 1) Your NYSOH account indicates, and your testimony confirms, that you receive notices from NYSOH by regular mail.
- 2) You testified that, in early October 2015, you saw an announcement on television reminding people to renew their eligibility for insurance through NYSOH.
- 3) You testified that, also in early October, after you saw this television announcement, you called the 800 number that was provided during the announcement to ask whether you needed to do anything to renew your eligibility for health insurance.

- 4) You testified that, when you called the 800 number you were told that if you needed to update your account, you would be receiving a notice in the mail from NYSOH.
- 5) You testified that you did not receive any notices from NYSOH telling you that you needed to update the information in your NYSOH account to ensure that your coverage would not be interrupted and that your financial assistance would continue.
- 6) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 7) You testified that, when you had not received a notice by early December 2015, you went ahead and paid your premium for December 2015 and January 2016.
- 8) You testified that your check for your premium payment for December 2015 and January 2016 was cashed by BlueCross BlueShield on December 23, 2015.
- 9) You testified that, in early January 2016, you received several notices from the state, including one that stated that you had not responded to a December 15, 2015 deadline and that your insurance was being cancelled. You also testified that you received a notice stating that you would now have to pay full cost for your insurance coverage.
- 10) You testified that you called NYSOH as soon as you received these notices in early January 2016.
- 11) You testified that, during your phone call with NYSOH, you informed the representative you spoke with that you never received a renewal notice, and that you had already paid your January 2016 premium.
- 12) You testified that the representative you spoke with at NYSOH told you that you had not complied with the rules because you did not renew your account.
- 13) You testified that, in early January 2016, you were billed for an additional premium amount for January 2016. You testified that you paid this premium so that, in total, you paid the full premium for the month of January 2016.
- 14) You testified that you did use your insurance coverage in January 2016.

- 15) You testified that you are seeking to have your APTC applied to your January 2016 premium, and to have the credit that would result from this applied to future premiums for your QHP.
- 16) The record reflects that you updated the information in your NYSOH account on January 4, 2016. That day you also enrolled into a QHP with a February 1, 2016 enrollment start date.
- 17) After the hearing, you faxed the following to NYSOH's Appeals Unit:
- a. A one-page fax cover sheet;
 - b. A one-page document consisting of the first page of the Notice of Telephone Hearing from NYSOH;
 - c. A one-page document consisting of a copy of the front and back of a check numbered [REDACTED] 7, with your name in the upper left corner, made out to Excellus Health Plan, dated December 14, 2015, in the amount of \$546.39, with "Dec/Jan" in the memo line. The back of the check is endorsed [REDACTED] with a date of [REDACTED];
 - d. A two-page document consisting of a December 24, 2015 enrollment confirmation notice from NYSOH;
 - e. A one-page document from Excellus BlueCross BlueShield addressed to you, that states [REDACTED]. The statement also contains a section that informs the enrollee that, if they did not update their financial information with NYSOH for 2016, their bill no longer reflects a tax credit for January or February, and that individuals who believe they still qualify for a credit should update their NYSOH account.
 - f. A one-page document from Excellus BlueCross BlueShield addressed to you that states [REDACTED]. The statement also shows an APTC of \$119.00 per month, and a total amount due of -\$275.49.
 - g. A one-page document from Excellus BlueCross BlueShield addressed to you that states [REDACTED]. The statement also shows a total amount due of \$119.00.

Collectively, this document is entered into the record as "Appellant's Exhibit One."

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

Redetermination During a Benefit Year

When an eligibility redetermination results in a change in the amount of 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 (or not 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 the benefit year (45 CFR § 155.330(g)).

Any change resulting from redeterminations during a benefit year should be made effective the first day of the month following the date of the notice of redetermination, except that redeterminations resulting from changes made after a date specified by the state, which can be no earlier than the 15th of the month, may not be made effective until the first day of the month after the month following the date of the notice of redetermination. (45 CFR § 155.330(f)(1) and (2)). New York has specified that changes made after the 15th of a given month will take effect the month after the following month.

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The issue under review is whether NYSOH properly determined that your receipt of APTC was effective February 1, 2016.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual's eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On October 24, 2015, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you qualify for financial help with paying for your health coverage. You were directed to update the information in your account by December 15, 2015, or the financial help you were receiving might end.

Because there was no timely response to this notice, your eligibility for financial assistance and your enrollment in a QHP was terminated effective December 31, 2015. You were also enrolled in a full cost QHP, effective January 1, 2016.

You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. Though you credibly testified that you contacted NYSOH in early October 2015 to inquire as to whether you needed to renew and that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable. Although you testified that you went ahead and paid your January premium in December 2015, this does not obviate the requirement that your NYSOH account needed to be updated within the renewal timeframe.

Therefore, the record reflects that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated in order to ensure your enrollment in your health plan and eligibility for financial assistance would continue. On December 21, 2015, NYSOH issued a notice that stated you were newly eligible to purchase a QHP at full cost, effective January 1, 2016. You were not eligible to receive APTC because your account had not been updated and NYSOH did not have the necessary information to make a determination as to your eligibility for financial assistance for that month.

The record shows that on January 5, 2016, you updated the information in your NYSOH account and submitted a request to enroll in a qualified health plan.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from that change effective the first day of the following month. Because you did not update your account until January 4, 2016, NYSOH properly determined that the application of your APTC was effective February 1, 2016.

However, when APTC is recalculated mid-year, NYSOH is required to prorate monthly amounts to reflect APTC that has (or has not) already been received, to ensure that the APTC you receive during the year is as close as possible to the overall tax credit you will be entitled to when you file your taxes for the 2016 tax year. Since you testified, and showed documentation, that you paid a total of \$394.49 for January 2016 – the amount of your full premium, according to the December 24, 2015 enrollment confirmation notice, you were therefore enrolled in coverage in January 2016 (see Appellant's Exhibit One).

It appears that NYSOH did not prorate the monthly amount in its January 5, 2016 eligibility determination. Instead, it simply found you eligible for the monthly amount to which you would have been entitled had you received APTC for the entire 12 months of the year.

Therefore, your case is RETURNED to NYSOH to re-calculate the monthly amount of APTC you should have received, based on the fact that your total tax credit for 2016 is being applied over a period of 11 months, not 12, and that you in fact had coverage through NYSOH for January 2016.

Decision

The January 5, 2016 eligibility determination notice is AFFIRMED.

The January 5, 2016 enrollment confirmation notice is AFFIRMED.

Your case is RETURNED to NYSOH to recalculate the amount of APTC you should have received (and should continue to receive) each month, based on

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your January 4, 2016 application, as your total tax credit is being applied over a period of 11 months, not 12, and it is anticipated that you will have coverage through NYSOH for the full year.

Effective Date of this Decision: May 20, 2016

How this Decision Affects Your Eligibility

NYSOH properly determined that your enrollment in your QHP, and the application of APTC, were both effective as of February 1, 2016.

However, since you were enrolled in a full cost QHP in January 2016, NYSOH should have prorated your APTC so that the amount you receive over the period of February 2016 through December 2016 is equivalent to the overall tax credit you will be entitled to when you file your 2016 tax return.

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 January 5, 2016 eligibility determination notice is AFFIRMED.

The January 5, 2016 enrollment confirmation notice is AFFIRMED.

Your case is RETURNED to NYSOH to recalculate the amount of APTC you should have received (and should continue to receive) each month, based on your January 4, 2016 application, as your total tax credit is being applied over a period of 11 months, not 12, and it is anticipated that you will have coverage through NYSOH for the full year.

NYSOH properly determined that your enrollment in your QHP, and the application of APTC, were both effective as of February 1, 2016.

However, since you were enrolled in a full cost QHP in January 2016, NYSOH should have prorated your APTC so that the amount you receive over the period of February 2016 through December 2016 is more closely equivalent to the overall tax credit you will be entitled to when you file your 2016 tax return.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

