



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: AP000000006347

[REDACTED]

Dear [REDACTED],

On May 18, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 21, 2016 eligibility determination notice and the January 21, 2016 enrollment confirmation 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).

This page intentionally left blank.



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

Decision

Decision Date: May 20, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006347

[REDACTED]

Issue

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

Did NY State of Health (NYSOH) properly determine the application of advance premium tax credits was effective March 1, 2016?

Procedural History

On December 12, 2015, NYSOH received a revised application, reflecting that you and your spouse were enrolled in employer-sponsored insurance coverage through COBRA from July 14, 2015 until January 14, 2016.

On December 14, 2015, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to receive up to enroll in a qualified health plan (QHP) at full cost. This eligibility was effective January 1, 2016.

Also on December 14, 2015, NYSOH issued a notice of enrollment, confirming that you and your spouse enrolled in QHP issued by Empire Blue Cross Blue Shield (Medical Downstate) with a monthly premium responsibility of \$1,418.10, effective January 1, 2016.

On January 20, 2016, NYSOH received several updates to your application in which you attested to no longer having employer-sponsored insurance coverage. In response to the last application submitted on that day, NYSOH prepared a preliminary eligibility determination stating that you and your spouse were eligible for an advance premium tax credit (APTC) of up to \$430.00 per month and, if you

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).

selected a silver-level plan, eligible for cost-sharing reductions (CSR), in each case, effective March 1, 2016.

Also on January 20, 2016, you spoke to NYSOH's Account Review Unit and appealed the January 20, 2016 preliminary eligibility determination insofar as it began your eligibility for APTC on March 1, 2016, and not January 1, 2016.

On January 21, 2016, NYSOH issued a notice of eligibility redetermination based on the information contained in the last application submitted on January 20, 2016. The notice stated that you and your spouse were eligible to receive an APTC of up to \$430.00 per month and, if you selected a silver-level plan, eligible for CSR. This eligibility determination was effective March 1, 2016.

Also on January 21, 2016, NYSOH issued a notice confirming the enrollment in a qualified health plan with a monthly premium responsibility of \$918.84, after your APTC of \$430.00 was applied, effective March 1, 2016.

On May 18, 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 supports the following findings of fact:

- 1) You submitted an application on December 12, 2015 reflecting that you and your spouse were enrolled in employer-sponsored coverage through COBRA from July 14, 2015 until January 14, 2016.
- 2) You and your spouse were found eligible to enroll in a QHP at full cost, effective January 1, 2016.
- 3) You and your spouse enrolled in a plan issued by Empire Blue Cross Blue Shield (Medical Downstate) with a monthly premium responsibility of \$1,418.10, effective January 1, 2016.
- 4) You testified that when you realized that you and your spouse would not be eligible for an APTC since you currently enrolled in employer-sponsored coverage through COBRA, you contacted your former employer and insurer to terminate the coverage through COBRA effective January 1, 2016, rather than January 14, 2016. You did this to ensure that you and your spouse would become eligible for tax subsidies beginning January 1, 2016.

- 5) You testified that you contacted a NYSOH representative during mid to late December 2015 to inform them that your coverage through COBRA had ended as of January 1, 2016, and that you were seeking get an APTC beginning January 1, 2016.
- 6) You testified that you contacted NYSOH when you received a notification during January 2016 reflecting that a tax subsidy had not been applied to the premium amounts due for coverage for both you and your spouse.
- 7) A revised application was submitted to the NYSOH on January 20, 2016 reflecting that you and your spouse were no longer enrolled in employer-sponsored coverage through COBRA.
- 8) You and your spouse were found eligible to receive an APTC of up to \$430.00 per month and, if you selected a silver-level plan, eligible for CSR, in each case effective March 1, 2016.
- 9) You testified that you were seeking your eligibility for \$430.00 in APTC to be applied to the premium amounts paid during January and February of 2016, such that you would be entitled to a total reimbursement of \$860.00.

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 an eligibility redetermination results in a change in the amount of APTC for a part of 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 overall 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.

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).

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 you and your spouse's eligibility for APTC was effective March 1, 2016.

You submitted an application on December 12, 2015, in which you attested that you were currently enrolled in an employer-sponsored insurance through COBRA

The record reflects that, based on that application, you and your spouse were found eligible to enroll in a QHP at full cost, effective January 1, 2016. You and your spouse enrolled in a QHP on December 13, 2015, with such coverage to begin on January 1, 2016.

You testified that upon being informed by a NYSOH representative that you and your spouse were not eligible for APTC since you were currently enrolled in a plan outside NYSOH, you took steps to terminate your coverage through COBRA effective January 1, 2016, rather than January 14, 2016.

You further testified that you contacted a NYSOH representative immediately thereafter, during mid to late December 2015, to confirm what you had done in order to ensure that you and your spouse would be credited with a tax subsidy beginning January 1, 2016. However, you testified that apparently your NYSOH account was not updated at that time, and only learned that after having received a notification from NYSOH during January 2016 reflecting that you and your spouse were not being credited with an APTC to offset the cost of your insurance premium.

While you credibly testified to the above events, there is nothing in the record to corroborate your testimony that you contacted the Marketplace during mid to late December 2015 to update your account reflecting that your COBRA coverage had been terminated as of January 1, 2016. The record does reflect, however, that you updated your NYSOH account on January 20, 2016 to state that you and your spouse were no longer enrolled your employer-sponsored insurance through COBRA.

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).

When an individual changes information in their application after the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the second following month.

Therefore, NYSOH's January 21, 2016 eligibility determination notice and enrollment confirmation notices are AFFIRMED because they properly began your eligibility for APTC on March 1, 2016.

Decision

The January 21, 2016 eligibility determination notice is AFFIRMED.

The January 21, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: May 20, 2016

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You and your spouse's eligibility for up to \$430.00 of APTC properly 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 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 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 21, 2016 eligibility determination notice is AFFIRMED.

The January 21, 2016 enrollment confirmation notice is AFFIRMED.

This decision does not change your eligibility.

You and your spouse's eligibility for up to \$430.00 of APTC properly began as of March 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:

