



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

Notice of Decision

Decision Date: May 27, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006437

[REDACTED]

Dear [REDACTED],

On May 23, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 5, 2016 eligibility determination notice and 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).

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DEPARTMENT OF HEALTH
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Decision

Decision Date: May 27, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006437

[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 that your household's enrollment in a qualified health plan, as well as the application of advance premium tax credits, was effective February 1, 2016?

Procedural History

On October 25, 2015, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you, your spouse, and your oldest son 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.

On November 1, 2015, NYSOH received your updated application for health insurance.

On November 2, 2015, NYSOH issued a notice of eligibility redetermination stating that your household was eligible to receive up to \$495.00 per month in advance payment of the premium tax credit (APTC) and, if you selected a silver-level qualified health plan, for cost-sharing reductions (CSR).

On November 2, 2015, NYSOH issued a letter confirming your household's enrollment in a qualified health plan with a monthly premium responsibility of \$478.99, after your APTC of \$495.00 was applied, effective January 1, 2015.

On December 21, 2015, an eligibility determination notice was issued finding your household newly eligible to purchase a qualified health plan at full cost effective January 1, 2016.

On December 24, 2015, a disenrollment notice was issued ending coverage for your household in your Silver level health plan effective December 31, 2015, because you were no longer eligible to remain in this plan.

Also on December 24, 2015, an enrollment confirmation notice was issued confirming your household's enrollment in a Silver level health plan with a premium responsibility of \$1,002.18 per month effective January 1, 2016.

On January 4, 2016, you updated your account.

On January 5, 2016, an eligibility determination notice was issued finding you, your spouse, and your eldest son newly eligible to receive advance premium tax credits and cost sharing reductions in the amount of \$551.00 per month effective February 1, 2016.

Also on January 5, 2016 an enrollment confirmation notice was issued confirming your household's enrollment in a Silver level health plan with a premium responsibility of \$451.17 per month, and a plan start date of January 1, 2016.

On January 25, 2016, you spoke to NYSOH's Account Review Unit and appealed the January 5, 2016 eligibility determination insofar as it began your financial assistance eligibility on February 1, 2016, and not January 1, 2016.

On May 23, 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) Your NYSOH account indicates that you receive notices from NYSOH by regular mail.
- 2) You testified that you did receive the October 25, 2015 renewal notice. Twice in the first two pages of the October 25, 2015 renewal notice, NYSOH stated that you needed to update your account by December 15,

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2015. It was not until the last sentence of the second page of a five page notice that it was stated that you needed to update your account between November 16, 2015 and December 15, 2016, for any changes to be in effect on January 1, 2016. The notice did not explain at all what would happen if you updated your account too soon.

- 3) You testified that you updated the information in your NYSOH account on November 1, 2015. That day you also enrolled yourself, your spouse, and your eldest son into a qualified health plan. You explained that you did not realize these changes would be effective December 1, 2015.
- 4) You testified that you contacted the NYSOH on January 4, 2016, and were told that your enrollment for you and your household did not constitute a renewal because it was not done after the 15th of the month of November. You then re-enrolled your family into a qualified health plan with the advance premium tax credit being effective February 1, 2016.
- 5) The record reflects that you were charged the full price of your qualified health plan for January 2016, but that your health plan is now applying the full monthly premium responsibility for the month of January on a prorated basis spread out over your monthly premium responsibility.
- 6) You testified that you are seeking to have advance payments of the premium tax credit be applied to your January 2016 premium responsibility.

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 by 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

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to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information 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.

For the benefit year beginning on January 1, 2016, the annual open enrollment period began on November 1, 2015 and ended on January 31, 2016 (45 CFR § 155.410(e)(2)).

Legal Analysis

The issue under review is whether NY State of Health (NYSOH) properly determined that your enrollment in a qualified health plan as well as your eligibility for advance premium tax credits 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 projected 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.

NYSOH issued an annual renewal notice on October 25, 2015. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you, your spouse, and your eldest child would qualify for financial help with paying for your health coverage. Although later in the notice it stated that you needed to update your account between November 16, 2015 and December 15, 2016 in order for the changes to be in effect on January 1, 2016, the first page only said that your updates needed to be completed by December 15, 2015.

You testified that you did receive the October 25, 2015 renewal notice, and you updated the information in your NYSOH account on November 1, 2015. That day you also enrolled yourself, your spouse, and your eldest son into a qualified health plan. A determination notice and enrollment confirmation were issued reflecting an effective date of December 1, 2015. You testified that you did not realize the effective date of these changes were December 1, 2015.

When you updated your account on November 1, 2015, the system did not consider that you intended to update your account for the upcoming coverage year. You relied on the first page of the notice, and simply updated your account before December 15, 2016, without realizing you had to wait for several weeks

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before updating your account. Additionally, nowhere in the notice did NYSOH advise you what the result would be if you updated your account before November 16, 2015.

Additionally, the open enrollment period for the 2016 coverage year was from November 1, 2015 to January 31, 2016; you did in fact update your account during the open enrollment period.

Therefore, it is found that NYSOH failed to clearly and unambiguously notify you of the precise dates between which you should update your account, that you reasonably relied on the first page of the notice and simply updated your account immediately after receiving the notice, and that you updated your account during the open enrollment period.

Because you complied with the October 25, 2015 renewal notice and relied on the information in that notice to update your account for what you believed to be the upcoming calendar year, NYSOH's January 5, 2016 eligibility determination notice finding you, your spouse, and your eldest son newly eligible to receive advance payments of the premium tax credit of \$551.00 per month and cost-sharing reductions no earlier than February 1, 2016 is incorrect, and is MODIFIED to reflect a January 1, 2016 start date.

Decision

The January 5, 2016 eligibility determination notice finding you, your spouse, and your eldest son newly eligible to receive advance payments of the premium tax credit of \$551.00 and cost-sharing reductions no earlier than February 1, 2016 is incorrect, and is MODIFIED to reflect a January 1, 2016 start date.

However, because you have been receiving a different, prorated amount of advance monthly payments, your case must be returned to NYSOH to determine the appropriate monthly payments from this point forward, after providing you with the immediate payment for January 2016 and considering the payments you have already received.

Effective Date of this Decision: May 27, 2016

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You, your spouse, and your eldest son's enrollment in your qualified health plan, and your eligibility for advance payments of the premium tax credit should have properly begun as of January 1, 2016.

However, since you have been in receipt of prorated payments since February 1, 2016, your case will have to be returned to NYSOH to recalculate the appropriate payments.

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

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- By fax: 1-855-900-5557

Summary

The January 5, 2016 eligibility determination notice finding you, your spouse, and your eldest son newly eligible to receive advance payments of the premium tax credit of \$551.00 and cost-sharing reductions no earlier than February 1, 2016 is incorrect, and is MODIFIED to reflect a January 1, 2016 start date.

However, because you have been receiving a different, prorated amount of advance monthly payments, your case must be returned to NYSOH to determine the appropriate monthly payments from this point forward, after providing you with the immediate payment for January 2016 and considering the payments you have already received.

This decision does not change your eligibility.

You, your spouse, and your eldest son's enrollment in your qualified health plan, and your eligibility for advance payments of the premium tax credit should have properly begun as of January 1, 2016.

However, since you have been in receipt of prorated payments since February 1, 2016, your case will have to be returned to NYSOH to recalculate the appropriate payments.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

