



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

### Notice of Decision

Decision Date: June 24, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006439

[REDACTED]

Dear [REDACTED],

On May 23, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's November 13, 2015 eligibility determination notice and December 6, 2015 disenrollment 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 at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation (CFR) 45 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: June 24, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006439

[REDACTED]

## Issue

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

Did New York State of Health (NYSOH) properly determine you and your spouse were ineligible for advance payment of the premium tax credit effective December 1, 2015?

Did NYSOH properly determine that you and your spouse's enrollment in a qualified health plan ended on December 31, 2015?

## Procedural History

On October 23, 2015, a renewal notice was issued which stated you and your spouse had been re-enrolled in your current Bronze level health plan for the upcoming year with a start date of January 1, 2016. The notice further stated you qualified for advance payments of the premium tax credit up to \$563.75 per month.

On November 5, 2015, your renewal notice was returned to NYSOH as undeliverable.

On November 13, 2015, an eligibility determination notice was issued finding you and your spouse newly eligible to purchase a qualified health plan at full cost effective December 1, 2015. The notice further explained that you and your spouse were no longer eligible to receive advance premium tax credits because NYSOH sent notices by U.S. mail to the address provided in your account.

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However, this information was returned as undeliverable. You were asked to update your mailing address so you could remain eligible for financial assistance.

Also on November 13, 2015, an enrollment confirmation notice was issued confirming your and your spouse's enrollment in a Bronze level health plan with a premium responsibility of \$682.58 per month.

On December 6, 2015, a disenrollment notice was issued confirming your request to end your and your spouse's insurance coverage with your bronze level health plan on December 2, 2015. The notice stated your coverage would end effective December 31, 2015.

On January 25, 2016, you spoke to the NYSOH Account Review Unit and appealed termination date of your coverage, requesting it be made effective November 30, 2015.

On May 23, 2016, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. The record was developed during the hearing and kept open 15 days for you to provide income verification documentation for you and your spouse. No documentation was received by the close of the record on June 7, 2016

## **Findings of Fact**

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

- 1) You are seeking to terminate insurance for you and your spouse effective November 30, 2015.
- 2) The record reflects you and your spouse enrolled in a bronze level health plan effective March 1, 2015.
- 3) The record reflects you contacted the NYSOH on December 2, 2015 and requested a termination of your qualified health plan.
- 4) The record reflects the October 23, 2015 renewal notice was returned as undeliverable to the NYSOH on November 5, 2016.
- 5) You testified that your home address has not changed. You testified that your mail will be returned if the letter [REDACTED] in your apartment is not changed to a lower case [REDACTED]. You testified that you did make NYSOH aware of this fact.
- 6) The record indicates that previous notices sent to you with [REDACTED] in the mailing address have not been returned to NYSOH as undeliverable.

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- 7) You testified that your health plan extracted the full payment of your qualified health plan without the advance premium tax credit being applied for the month of December, 2015.
- 8) You testified that you were not made aware of your failure to renew, or the returned mailing when you contacted the NYSOH on December 2, 2015.

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

## **Applicable Law and Regulations**

### 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, the Marketplace 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)).

### End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the advance premium tax credit 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 the Marketplace 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).

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## Termination of a Qualified Health Plan

The NYSOH must permit an enrollee to terminate his or her coverage with a qualified health plan coverage, with appropriate notice to the NYSOH or qualified health plan (45 CFR § 155.430(b)(1)(i)).

For enrollee-initiated terminations, the last day of coverage is either:

- 1) The termination date specified by the enrollee, if the enrollee provides reasonable notice (at least 14 days before the requested termination date);
- 2) Fourteen days after the enrollee requests the termination, if they do not provide reasonable notice; or
- 3) On a date on or after the date the enrollee requests the termination, if the enrollee's qualified health plan issuer and the enrollee agree to such a date

(45 CFR § 155.430(d)(2)(i)-(iii)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined you and your spouse were ineligible for advance payment of the premium tax credit effective December 1, 2015.

The record reflects you and your spouse enrolled in a bronze level health plan effective March 1, 2015.

You were then issued a renewal notice to your address on file with NYSOH on October 23, 2015. The record reflects the October 23, 2015 renewal notice was returned as undeliverable on November 5, 2016 and as a result, you and your spouse eligibility for advance premium tax credits was terminated for the month of December 2015.

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 the Marketplace 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 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 was required to continue your eligibility during those 90 days. The Marketplace failed to comply with those requirements.

However, at the time of your hearing you already would have been obligated to file your taxes for the 2015 year. Any APTC that you would have been eligible for in the month of December 2015 should have been reconciled on your tax return.

Therefore, the November 13, 2015 enrollment confirmation notice not applying APTC to your monthly premium for December 2015 is **AFFIRMED**.

The second issue under review is whether NYSOH properly determined that the coverage provided by your qualified health plan ended on December 31, 2015.

You testified that on December 2, 2015 you contacted NYSOH to ask that your coverage be cancelled effective November 30, 2015.

Enrollees must be allowed to terminate their coverage with a qualified health plan if they provide appropriate reasonable notice to the NYSOH or to their health plan.

The last day of coverage will be the termination date specified by the enrollee, if the enrollee provides reasonable notice. Reasonable notice is defined as at least 14 days before the requested termination date.

You testified that upon discovering a full premium payment being extracted for your enrollment in your bronze level health plan, you contacted NYSOH on December 2, 2015 to request a cancellation date of November 30, 2015. This was within two days of your enrollment. You would have had to notify NYSOH at least fourteen days before November 30, 2015 or by November 16, 2015.

Therefore, the NYSOH's December 6, 2015 disenrollment notice is **AFFIRMED** because it properly terminated your and your spouse's enrollment in your qualified health plan on December 31, 2015.

## **Decision**

The November 13, 2015 enrollment confirmation notice is **AFFIRMED**.

The December 6, 2015 disenrollment notice is **AFFIRMED**.

**Effective Date of this Decision:** June 24, 2016

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

You and your spouse's coverage in your Bronze level health plan ended effective December 31, 2015.

## **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 after the date 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 date 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
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## **Summary**

The November 13, 2015 enrollment confirmation notice is AFFIRMED.

The December 6, 2015 disenrollment notice is AFFIRMED.

You and your spouse's coverage in your Bronze level health plan ended effective December 31, 2015.

## **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545.

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

