



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

Notice of Decision

Decision Date: July 1, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006614

[REDACTED]

Dear [REDACTED]

On June 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 23, 2016 enrollment confirmation notice and January 30, 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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NY State of Health Account ID: [REDACTED]
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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 enrollment in a qualified health plan, as well as the application of advance premium tax credits, was effective March 1, 2016, instead of January 1, 2016?

Procedural History

On October 22, 2015, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. The notice stated that you could not be enrolled in your current health plan for the next coverage year, and you were directed to select a different health plan between November 16, 2015 and December 15, 2015 to continue your coverage. The notice explained you would be eligible to qualify for a tax credit of up to \$106.25 per month effective January 1, 2016.

On October 30, 2015, NYSOH issued a notice stating that Health Republic, your current plan, would no longer be offering coverage as of December 1, 2015, and that immediate action on your part was needed. You were directed to select a new plan before November 15, 2015 to have coverage for December 2015. If you did not select a plan, you would not have coverage for December 2015.

On November 4, 2015, a disenrollment notice was issued terminating your coverage under your Health Republic plan, effective November 30, 2015.

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Your account was not updated by the November 15, 2015 deadline.

On November 20, 2015, a notice was issued stating your coverage under Health Republic would be ending November 30, 2015, and that your new plan selection for December 2015 had not yet been received. However, your information had been sent to Fidelis Care, you would be given the opportunity to enroll in Fidelis Care effective December 1, 2015. You would be receiving an invoice, and you would have to pay the invoice within ten days of the invoice date if you wished to accept this coverage.

On November 22, 2015, a disenrollment notice was issued ending your coverage under Fidelis Gold level health plan effective December 31, 2015.

On November 24, 2015, you contacted NYSOH to complete your renewal and submitted your updated application for health insurance.

On November 25, 2015, an eligibility determination notice was issued based upon your November 24, 2015 application. That determination found you eligible to receive up to \$104.00 per month in advance payments of the premium tax credit, effective January 1, 2016.

Also on November 25, 2015, an enrollment confirmation notice was issued based on a November 17, 2015 "enrollment," confirming your enrollment in your Fidelis health plan, with a start date of December 1, 2015.

On January 22, 2016 your enrollment was updated, and on January 23, 2016, an enrollment confirmation notice was issued confirming your January 22, 2016 enrollment in a Fidelis plan effective March 1, 2016.

On January 29, 2016, you spoke to NYSOH's Account Review Unit and appealed the enrollment confirmation notice insofar as it began your Gold level health plan effective March 1, 2016, and not January 1, 2016.

On January 30, 2016, an eligibility determination notice was issued finding you eligible to receive up to \$104.00 per month in advance payments of the premium tax credit, effective March 1, 2016.

On June 7, 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 account indicates that you have elected to receive notices from NYSOH through regular mail.
- 2) There is no evidence that any notices sent to you have been returned as undeliverable.
- 3) You are seeking insurance for yourself.
- 4) The record reflects that when you called to update your account on November 24, 2015, no enrollment was submitted on your behalf. You had previously been enrolled as of December 1, 2015 with a Gold level health plan through Fidelis, after your former plan stopped providing coverage in New York.
- 5) You testified that you were told by a NYSOH agent on November 24, 2015 that the coverage you were going to be enrolled in for December, 2015 was in fact going to be the coverage for the upcoming 2016 year, and that there was nothing further you needed to do.
- 6) The events tab in your NYSOH account indicates that on November 24, 2015, a NYSOH agent accessed your account, updated your demographics, contact information, and ran your eligibility, but no enrollment was submitted.
- 7) You testified you contacted the NYSOH again on January 22, 2016 and January 29, 2016 and selected a Gold level qualified health plan effective March 1, 2016; it was the same plan you had been enrolled in for December 2015.
- 8) You testified you were not aware you did not have coverage for the 2016 year until you visited your physician in January 2016.
- 9) You testified that you did receive the October 22, 2015 renewal notice, and that was why you were contacting the NYSOH on November 24, 2015.
- 10) There is nothing in your account that indicates you opted to delay your enrollment when you called on November 24, 2015 to update your account.

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

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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 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.

Enrollment in a Qualified Health Plan

NYSOH must provide annual open enrollment periods during which time qualified individuals may enroll or change qualified health plans (45 CFR §155.410(a)).

For the benefit year beginning on January 1, 2016, the annual open enrollment period began on November 1, 2015, and extended through January 31, 2016 (45 CFR §155.410(e)(2)). NYSOH must ensure that coverage is effective as of January 1, 2016, for qualified health plan selections received by on or before December 19, 2015 (45 CFR §155.410(f)(2)(i), Press Release: NY State of Health Extends Enrollment Deadline for January 1 Coverage, <http://info.nystateofhealth.ny.gov/news/press-release-ny-state-health-extends-enrollment-deadline-january-1-coverage>).

Legal Analysis

The issue under review is whether NYSOH properly determined that your enrollment in a qualified health plan as well as your eligibility for advance premium tax credits was effective March 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.

On October 22, 2015, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. The notice read that you were unable to be enrolled in your current health plan for the next coverage year. You were asked to select a different health plan between November 16, 2015 and December 15, 2015. The notice explained you were eligible to qualify for a tax credit of upon \$106.25 per month effective January 1, 2016.

Shortly thereafter, you were informed that your coverage through Health Republic would no longer be available for December 2015, because that company would no longer be offering coverage.

During your telephone hearing, you explained you were aware of the need to renew your coverage, and that was the purpose of your call on November 24, 2015. However, the record reflects no enrollment was submitted on your behalf for 2016 coverage when you contacted the NYSOH on November 24, 2015. You were enrolled for December 1, 2015 with a Gold level health plan through Fidelis as a result of your coverage under Health Republic being terminated effective November 30, 2015.

You testified that you were told by a NYSOH agent on November 24, 2015 that the coverage you were going to be enrolled in for December, 2015 was in fact going to be the coverage for the upcoming 2016 year, and that there was nothing further you needed to do.

The events tab in your NYSOH account indicates that on November 24, 2015, a NYSOH agent accessed your account, updated your demographics, contact information, and ran your eligibility, but no enrollment was submitted.

The record shows that on January 22 and 29, you successfully updated the information in your NYSOH account once again, and were able to select a qualified health plan.

When an individual changes information in their application after the 15th day of any month, NYSOH generally must make the redetermination that results from the change effective the first day of the next following month. Additionally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected after the 15th day of a month goes into effect on the first day of the next following month. Therefore your selection of a plan made the effective date become March 1, 2016.

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You timely responded to the October 22, 2015 renewal notice for the purposes of renewing your coverage. However, no actions were taken at that time to re-enroll you in your plan.

We find that, given the confusion caused by the unexpected departure of Health Republic from NYSOH and the resulting need for you to essentially reenroll in a plan twice within the space of a month, it was reasonable that you or the NYSOH representative misunderstood the actions needed to keep your enrollment in place.

It is also noted that you did not change your plan, and instead remained with the plan selected for you by NYSOH for December 2015, and Health Republic became unavailable.

Had your enrollment been processed on November 24, 2015, when you updated your account, your enrollment in your qualified health plan, as well as your receipt of advance payments of the premium tax credit, would have been effective January 1, 2016,

Therefore the January 23, 2016, and January 30, 2016, enrollment confirmation notices are MODIFIED to reflect enrollment in your health plan and the receipt of advance payments of the premium tax credit is effective January 1, 2016.

Decision

The January 23, 2016 and January 30, 2016 enrollment confirmation notices are MODIFIED to reflect that your coverage was effective January 1, 2016.

Effective Date of this Decision: July 1, 2016

How this Decision Affects Your Eligibility

Your enrollment in your Gold Level qualified health plan, and your eligibility for APTC, is effective January 1, 2016.

Your case will be returned to NYSOH to facilitate your reenrollment and receipt of advance payment of the premium tax credit; you will be responsible for any outstanding premium.

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 23, 2016 and January 30, 2016 enrollment confirmation notices are MODIFIED to reflect that your coverage was effective January 1, 2016.

Your enrollment in your Gold Level qualified health plan, and your eligibility for APTC, is effective January 1, 2016.

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Your case will be returned to NYSOH to facilitate your reenrollment and receipt of advance payment of the premium tax credit; you will be responsible for any outstanding premium.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

