



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

Notice of Decision

Decision Date: July 18, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006641

[REDACTED]

Dear [REDACTED]

On June 29, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 20, 2016 eligibility determination notice and January 20, 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: July 18, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006641

[REDACTED]

Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine that you and your daughter were eligible to receive up to \$212.00 per month in advance payments of the premium tax credit, effective March 1, 2016?

Did NYSOH properly determine that you and your daughter were not eligible for cost-sharing reductions?

Procedural History

On October 23, 2015, NYSOH issued a notice stating that it was time to renew coverage for you, [REDACTED], and your son. It also stated that based on information obtained from state and federal data sources, you and your son were eligible to receive up to \$137.74 per month in advance payments of the premium tax credit (APTC), effective January 1, 2016. This eligibility was based on federal and state data sources that indicated your household income was between \$27,310.00 and \$80,360.00. You were not eligible for cost-sharing reductions (CSR) because your income was in excess of \$50,225.00.

The notice stated that you and your son had been re-enrolled in your current qualified health plan (QHP), effective January 1, 2016. If you were satisfied with this, there was nothing further you needed to do. If you wanted to make changes, any such changes should be made to your account from November 16, 2015 to December 15, 2015 for such changes to be effective January 1, 2016.

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).

On November 3, 2015, you contacted NYSOH and updated your NYSOH account; changes included adding your daughter as needing health insurance and decreasing your expected annual earnings to \$44,301.99.

On November 4, 2015, NYSOH issued an eligibility determination notice stating that you, your son, and your daughter were eligible to receive up to \$381.00 per month in APTC, and eligible to receive cost-sharing reductions (CSR), effective December 1, 2015.

On November 4, 2015, NYSOH issued an enrollment confirmation notice, confirming your enrollment and your son's enrollment in your QHP effective January 1, 2015, and confirming that the application of \$381.00 per month in APTC, effective "February 1, 2015" (*sic*). The notice also stated that your daughter's coverage would not begin until she picked a plan.

On November 5, 2015, you again updated your NYSOH account and enrollments.

On November 6, 2015, NYSOH issued an eligibility determination notice stating that you, your son, and your daughter were eligible to receive up to \$381.00 in APTC per month, and eligible to receive CSR, effective December 1, 2015.

Also on November 6, 2015, NYSOH issued an enrollment confirmation notice confirming your, your son's, and your daughter's enrollment in your QHP, effective January 1, 2015, and confirming the application of \$381.00 per month in APTC, effective December 1, 2015.

On November 11, 2015, NYSOH issued a second renewal notice that it was time to renew your family's health insurance for the upcoming coverage year. The notice stated that NYSOH previously sent you a notice about renewing your family's health coverage for the upcoming year, but that information about your family's eligibility or health coverage had been changed or updated since then. The notice further stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your family would qualify for financial help paying for health coverage, and that you needed to update your account between November 16, 2015 and December 15, 2015, or your family 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, your son, and your daughter were newly eligible to purchase a QHP at full cost, effective January 1, 2016. The notice further stated that your family was 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 22, 2015, NYSOH issued a disenrollment notice stating that your family's 2015 QHP coverage was ending effective December 31, 2015.

Also on December 22, 2015, NYSOH issued an enrollment confirmation notice stating that your family's enrollment in your full cost QHP began as of January 1, 2016.

On January 19, 2016, NYSOH received your updated application for health insurance.

On January 20, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your daughter were newly eligible to receive up to \$212.00 per month in APTC, effective March 1, 2016, and not eligible to receive CSR. This notice also stated that your son was eligible for Medicaid effective January 1, 2016. This was based on annual earnings of \$55,000.00 and on your claiming only one dependent.

On January 20, 2016, NYSOH issued an enrollment confirmation notice confirming your enrollment and your daughter's enrollment in a silver level QHP with a monthly premium of \$865.91, with a plan start date of January 1, 2016. The notice further stated that none of your \$212.00 in APTC was being applied.

On January 29, 2016, you spoke to NYSOH's Account Review Unit and appealed the January 20, 2016 eligibility determination insofar as it did not begin your eligibility and your daughter's eligibility for a tax credit until March 1, 2016, and insofar as you were not satisfied with the amount of APTC for which you and your daughter were found eligible. You also appealed the January 20, 2016 enrollment confirmation notice insofar as your tax credit was not applied to your monthly premium. You also requested aid to continue pending the outcome of your appeal.

On February 25, 2016, your request for aid to continue was granted and your former 2015 APTC amount was reinstated, pending the outcome of your appeal. As a result, on February 26, 2016, NYSOH issued a notice of eligibility determination stating that you and your daughter were eligible to receive up to \$387.03 in APTC, effective February 1, 2016.

On June 29, 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) The record reflects that you receive email alerts regarding notices from NYSOH, as opposed to receiving notices by regular mail.
- 2) You testified that you receive some notices from NYSOH by mail, but that you also sometimes receive email alerts.
- 3) You testified that you did not recall receiving email alerts regarding the October 23, 2015 renewal notice or the November 11, 2015 renewal notice.
- 4) You testified that you do recall receiving a notice stating that you had not renewed your family's eligibility and were not eligible for a tax credit.
- 5) You testified that you updated your account on November 3, 2015 because your daughter turned 19 on [REDACTED] and you knew she was no longer eligible for Child Health Plus. You testified that you had called Blue Cross/Blue Shield, your QHP, when your daughter turned 19, and were told that your daughter would be automatically added to your health plan. You therefore did not make any updates to your account until November 2015 when you discovered that she had no health insurance.
- 6) You testified that when you updated your account in November 2015, you selected a five year automatic renewal of coverage. You testified that you believed that you were renewing your whole household's coverage, and that you did not need to renew again for 2016.
- 7) You testified that you did not know that there was a problem with your account until you receive a bill for an \$800.00 premium for your QHP in early 2016.
- 8) The record reflects that you updated your account on January 19, 2016.
- 9) You testified that you are seeking for you and your daughter to be reinstated in your QHP with the application of APTC as of January 1, 2016. You testified that you are also appealing to be found eligible for a higher amount of APTC.
- 10) You testified that you are not appealing the determination that your son is eligible for Medicaid.

- 11) The record reflects, and your testimony confirmed, that you expect to file your 2016 tax return with a tax filing status of head of household. You plan to claim one dependent on that tax return.
- 12) Your January 19, 2016 application indicates that your son will be filing taxes as single, and is not a dependent in your household.
- 13) The application that was submitted on January 19, 2016 listed annual household income of \$55,000.00, consisting of \$20,000.00 in earned income and \$35,000.00 in additional income. You testified that this income represents money you earn as an employee of a [REDACTED], and money you earn from a business that you own. You testified that this amount was correct.
- 14) You testified that your income may increase some over the year because you have taken on some additional business.
- 15) Your application did not list deductions, but you stated that you may be claiming a deduction for tuition and fees that you pay for your daughter.
- 16) You testified that you are a single mother with two children living with you, and that you are providing for both of them. You testified that you are concerned about the cost of your health insurance, and the “jump” in the amount you have to pay for premiums.
- 17) Your application states that you live in Suffolk County.

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

Applicable Law and Regulations

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

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).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2016 is set by federal law at 2.03% to 9.66% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc. 2014-37, IRS Rev. Proc. 2014-62).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your applications, that was the 2015 FPL, which is \$15,930.00 for a two-person household (80 Federal Register 3236, 3237).

For annual household income in the range of at least 300% but less than 400% of the 2015 FPL, the expected contribution is 9.66% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37, IRS Rev. Proc. 2014-62).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on NYSOH application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

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).

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 individual's projected eligibility for the upcoming year and the information upon which NYSOH will rely to redetermine the 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 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.

Electronic Notices

If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

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 first issue is whether NYSOH properly determined that you and your daughter were eligible for an APTC of up to \$212.00 per month, effective March 1, 2016.

The application that was submitted on January 19, 2016 listed an annual household income of \$55,000.00, and the eligibility determination relied upon that information. Although you testified that you might take deductions on your 2016 tax return, that information was not included in your January 19, 2016 application, and your account has not been updated to reflect this information since your January 19, 2016 application.

You are in a two-person household. You expect to file your 2016 income taxes as head of household with qualifying individual, and will claim one dependent on that tax return.

You reside in Suffolk County, where the second lowest cost silver plan available for a primary subscriber and one dependent through NYSOH costs \$654.69 per month.

An annual income of \$55,000.00 is 345.26% of the 2015 FPL for a two-person household. At 345.26% of the FPL, the expected contribution to the cost of the health insurance premium is 9.66% of income, or \$442.75 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through NYSOH for a primary subscriber and one dependent in your county (\$654.69 per month) minus your expected contribution (\$442.75 per month), which equals \$211.94 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you and your daughter to be eligible for up to \$212.00 per month in APTC, based on the information in your January 19, 2016 application.

The second issue is whether you and your daughter were properly found ineligible for cost-sharing reductions (CSR). CSR are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$55,000.00 is 345.26% of the applicable FPL, NYSOH correctly found you and your daughter to be ineligible for CSR.

You testified that you do not feel the premium payments are affordable, and don't understand the "jump" in the amount of premium payment you are responsible for. However, the record reflects that, when you updated your account in November 2015, your son was still listed as a dependent in your household. This resulted in an APTC amount for December 2015 that was based on a three person household. Your current amount of APTC is based on a two-person

household, as your son is now eligible for Medicaid, and is no longer a member of your household for tax purposes. Moreover, your household income changed.

The third issue under review is whether NYSOH properly determined that you and your daughter's eligibility for APTC 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 23, 2015, NYSOH issued an annual renewal notice in your case stating that you and your son were going to be re-enrolled into your same QHP for 2016, with an APTC amount of \$137.74. However, you updated your account after that notice was issued because your daughter's eligibility for CHP had ended, and you needed to apply for coverage for her through NYSOH.

This resulted in NYSOH issuing a second renewal notice on November 11, 2015 that stated that, based on information from federal and state sources, NYSOH could not make a decision about whether or not your household would qualify for financial help with paying for your health coverage in 2016. You were asked to update the information in your account by December 15, 2015, or the financial help your household was receiving might end.

Because there was no timely response to this notice, your household's eligibility for financial assistance ended effective December 31, 2015, and your household was auto-enrolled into the same QHP in which you and your son were enrolled in 2015, but at full cost. This enrollment began January 1, 2016.

However, the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you do not recall ever seeing a renewal notice in October or November of 2015. There is no evidence in your account documenting that any email alert was sent to you regarding the renewal notice or the need to renew your application.

Moreover, you testified that, when you updated your NYSOH account in November 2015 to add your daughter to your coverage, you believed that you were updating your account for 2016, and that you would not need to renew again so soon, especially since you selected a five-year automatic renewal.

Additionally, when you updated your account on November 3, 2015, open-enrollment for the upcoming year had already begun.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account, and that you reasonably believed that by updating your account during open-enrollment period your enrollment would be effective for the upcoming calendar year.

You first renewed your eligibility for financial assistance through NYSOH for 2016 on January 19, 2016, and therefore we must assume that this is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

Therefore, the January 20, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, you and your daughter are newly eligible to receive up to \$212.00 in APTC per month, and the January 20, 2016 notice of enrollment confirmation is MODIFIED to state that your enrollment and your daughter's enrollment in your qualified health plan, along with the application of APTC, are effective January 1, 2016.

Decision

The January 20, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, you and your daughter are newly eligible to receive up to \$212.00 in APTC per month.

The January 20, 2016 notice of enrollment confirmation is MODIFIED to state that your enrollment and your daughter's enrollment in your QHP with the application of your APTC to your monthly premium started on January 1, 2016.

Your case is RETURNED to NYSOH to make the changes listed above.

Effective Date of this Decision: July 18, 2016

How this Decision Affects Your Eligibility

You and your daughter were properly found eligible for APTC in the amount of \$212.00 per month, and properly found ineligible for CSR.

You and your daughter should have been found eligible for APTC effective January 1, 2016.

Your enrollment and your daughter's enrollment in your QHP, along with the application of your APTC to your premium payment, should have begun as of January 1, 2016.

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).

Your case is being sent back to NYSOH to make this change.

You will be responsible for any premium payments that become due as a result of this decision.

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

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).

Summary

The January 20, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, you and your daughter are newly eligible to receive up to \$212.00 in APTC per month.

The January 20, 2016 notice of enrollment confirmation is MODIFIED to state that your enrollment and your daughter's enrollment in your QHP with the application of your APTC to your monthly premium started on January 1, 2016.

Your case is RETURNED to NYSOH to make the changes listed above.

You and your daughter were properly found eligible for APTC in the amount of \$212.00 per month, and properly found ineligible for CSR.

You and your daughter should have been found eligible for APTC effective January 1, 2016.

Your enrollment and your daughter's enrollment in your QHP, along with the application of your APTC to your premium payment, should have begun as of January 1, 2016.

Your case is being sent back to NYSOH to make this change.

You will be responsible for any premium payments that become due as a result of this decision.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

