



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

Notice of Decision

Decision Date: June 16, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006658

[REDACTED]

Dear [REDACTED],

On June 8, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 1, 2016 eligibility determination 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006658

[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 the application of advance payments of the premium tax credit to the cost of your qualified health plan began no earlier than March 1, 2016?

Procedural History

On October 24, 2015, NY State of Health (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, you no longer qualified for health care coverage under Medicaid, Child Health Plus, the Essential Plan or for tax credits or cost sharing reductions because your household income was over \$47,080.00. The notice also stated that you did qualify to purchase a health plan at full cost, and that you had been re-enrolled into the qualified health plan (QHP) in which you were currently enrolled, effective January 1, 2016. Lastly, the notice stated that, if you believed any of the information in the notice to be incorrect, or if you needed to make changes to your account, you should log into your NYSOH account between November 16, 2015 and December 15, 2015 to make any changes.

On November 25, 2015, NYSOH issued an enrollment confirmation notice, confirming your enrollment in a full cost individual bronze level QHP through Affinity, effective January 1, 2016.

No updates were made to your account by December 15, 2015.

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On January 30, 2016 and January 31, 2016, NYSOH received your updated applications for health insurance.

On January 31, 2016, NYSOH issued a preliminary eligibility determination stating that you were eligible to receive up to \$226.00 per month in advance payments of the premium tax credit (APTC) and cost-sharing reductions (CSR), effective March 1, 2016.

Also on January 31, 2016, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it began your financial assistance eligibility on March 1, 2016 and not January 1, 2016.

On February 1, 2016, NYSOH issued a notice of eligibility redetermination stating that you were eligible to receive up to \$226.00 per month in APTC and, if you selected a silver-level qualified health plan, for CSR. This eligibility was effective March 1, 2016.

Also on February 1, 2016, NYSOH issued a disenrollment notice stating that NYSOH received your request to end your coverage in your Affinity QHP, and that coverage would end on February 29, 2016.

That same day, NYSOH also issued an enrollment confirmation notice, confirming your enrollment in a Metro Plus individual bronze level QHP, with a monthly premium of \$95.34 after the application of your APTC, effective March 1, 2016

On June 8, 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) You testified, and the record reflects, that you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you did receive the October 24, 2015 renewal notice, but that you cannot recall when you actually read it.
- 3) You testified that you received a call from your health plan, Affinity, notifying you that it was time to re-enroll.

- 4) You testified that you re-enrolled with Affinity, and thought you didn't need to do anything else
- 5) You testified that your Affinity QHP premium was automatically deducted from your bank account each month, and that the last month for which a premium was deducted was December 2015.
- 6) You testified that you were not aware that you had stopped receiving a tax credit as of January 1, 2016 until approximately the end of January 2016, when you logged into your Affinity account and saw the outstanding premium bills for January and February 2016.
- 7) The record reflects that on January 30 and 31, 2016, you made updates to your NYSOH account.
- 8) You testified that you have not made premium payments to Affinity for January or February of 2016.
- 9) You testified that you did not use your coverage in January or February of 2016, nor do you have any outstanding medical bills from those months.
- 10) You testified that you are seeking to have the start date of the application of your APTC backdated to January 1, 2016.

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

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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.

APTC End of Year Tax Reconciliation

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).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your eligibility for advance premium tax credits was effective as of 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 24, 2015, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, you were not eligible for financial assistance through NYSOH. However, you were automatically re-enrolled into your current QHP – Affinity – effective January 1, 2016 at full cost. You were advised to update the information in your account by December 15, 2015 if any of the information in the renewal notice was incorrect, or if there were any changes in your life that would affect your eligibility for financial assistance.

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Because there was no timely response to this notice, your eligibility for financial assistance was terminated effective December 31, 2015.

You testified that you weren't aware that you had stopped receiving a tax credit as of January 1, 2016 until you logged into your Affinity account and saw that you owed premium payments for January and February of 2016. You also testified that you thought that, because you had re-enrolled with Affinity, you did not need to do anything else to renew your coverage for 2016.

However, you acknowledged receiving the October 24, 2015 renewal notice, which informed you that your tax credit was ending and that you needed to update your account by December 15, 2015 if you wanted to see whether you were eligible for financial assistance beginning January 1, 2016. Therefore, it is concluded that NYSOH properly and timely informed you that your financial assistance was terminating, and that you needed to update your account if you wanted financial assistance in 2016.

As such, the February 1, 2016 notice of eligibility redetermination, stating that you were eligible to receive up to \$226.00 per month in APTC, and eligible for CSR, effective March 1, 2016 was correct and is AFFIRMED.

When you file your 2016 taxes, the amount of APTC you received will be reconciled, and if you were eligible for more APTC than you received in 2016, you may receive a refund or a reduction in your tax bill. If you received more APTC than you were eligible for, you will owe the difference as additional income taxes.

Decision

The February 1, 2016 eligibility determination is AFFIRMED.

Effective Date of this Decision: June 16, 2016

How this Decision Affects Your Eligibility

The application of your APTC to your health plan premium properly began as of March 1, 2016.

When you file your 2016 taxes, if you received less APTC than you were eligible for in 2016, you may be eligible to receive a refund or a reduction in your tax bill. If you received more APTC than you were eligible for, you will owe the difference as additional income taxes.

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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
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- By fax: 1-855-900-5557

Summary

The February 1, 2016 eligibility determination is AFFIRMED.

The application of your APTC to your health plan premium properly began as of March 1, 2016.

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When you file your 2016 taxes, if you received less APTC than you were eligible for in 2016, you may be eligible to receive a refund or a reduction in your tax bill. If you received more APTC than you were eligible for, you will owe the difference as additional income taxes.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

