



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

Notice of Decision

Decision Date: August 24, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006773

[REDACTED]

Dear [REDACTED],

On July 13, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's July 19, 2015 eligibility determination and August 17, 2015 enrollment 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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

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: August 24, 2016
NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006773



Issue

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

Did New York State of Health (NYSOH) improperly redetermine your eligibility for financial assistance as of July 19, 2015?

Procedural History

On January 30, 2015, NYSOH issued an eligibility determination notice, in relevant part, that you were eligible for up to \$235.00 monthly of advance premium tax credit and cost-sharing reductions, if you enroll in a silver-level qualified health plan. The notice also stated that you were eligible for APTC Premium Assistance, if you apply all of your tax credit and enroll in a silver-level health plan, effective as of March 1, 2015.

On March 13, 2015, NYSOH issued an enrollment notice confirming, in relevant part, that as of March 12, 2015, you were enrolled in MVP Premier Silver Silver ST INN Dep25 (MVP Silver) health plan with a premium responsibility of \$0.00. The notice stated that your MVP Silver coverage could start as early as April 1, 2015.

On July 2, 2015, NYSOH updated your account.

On July 19, 2015 NYSOH issued a renewal notice stating, in relevant part, that based on federal and state data sources, you and your spouse were qualified to receive up to \$578.25 monthly of advance premium tax credit and cost-sharing reductions. The notice states that you have been enrolled in a MVP Silver plan with a start date of September 1, 2015. Furthermore, if a mistake about the people listed or about the health plan you've been enrolled in has been made,

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you need to make changes to your account between July 16, 2015 and August 15, 2015.

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

On August 17, 2015, NYSOH issued an enrollment notice confirming, in relevant part, that as of August 16, 2015, you were enrolled in MVP Silver with a premium responsibility of \$274.93. The notice stated that your MVP Silver coverage was effective March 1, 2015, and your advance premium tax credit was applied to your monthly premium effective March 1, 2015.

On February 3, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as your eligibility for APTC Premium Assistance from September 1, 2015 to December 31, 2015.

On July 13, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing and left open until July 18, 2016, to allow you submit additional documentation.

On July 14, 2016, you faxed nine-pages of documents to NYSOH Appeals Unit. Those documents have been marked as "Appellant Exhibit A" and made part of the record. The record is now complete and closed.

Findings of Fact

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

1. According to your January 29, 2015 NYSOH application, you expected to file your 2015 federal income tax return, with the tax status of married filing jointly, and expected to claim three dependents on that tax return.
2. According to your January 29, 2015 NYSOH application, you attested to a household income of \$41,600.00.
3. According to your NYSOH account, you have three children under the age of twenty-one.
4. You reside in Orange County, New York.
5. On January 30, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to up to \$235.00 monthly of advance premium tax credit, cost-sharing reductions and APTC Premium Assistance, if you apply all of your tax credit and enroll in a silver-level health plan, effective as of March 1, 2015 ([REDACTED]).

6. On March 13, 2015, NYSOH issued an enrollment notice confirming that as of March 12, 2015, you were enrolled in MVP Premier Silver Silver ST INN Dep25 (MVP Silver) health plan with a premium responsibility of \$0.00. The notice states:

Total Plan Cost: \$509.93
Less Premium Tax Credit, if applicable: \$235.00
Less Premium Paid by New York State: \$274.93
Your Total Premium Cost: \$0.00

([REDACTED]

7. According to your “enrollment history” in your NYSOH account, your MVP Silver qualified health plan started on March 1, 2015.
8. According to your NYSOH account, your eligibility was redetermined by the “SYSTEM” on July 16, 2015.
9. On July 19, 2015 NYSOH issued a renewal notice stating, that based on federal and state data sources, you and your spouse were qualified to receive up to \$578.25 monthly of advance premium tax credit and cost-sharing reductions. Furthermore, if a mistake about the people listed to be covered or about the health plan you’ve been enrolled in, you need to make changes to your account between July 16, 2015 and August 15, 2015 ([REDACTED]
10. According to your NYSOH account, you did not make any changes to your account between July 16, 2015 and August 15, 2015.
11. On August 17, 2015, NYSOH issued an enrollment notice confirming that as of August 16, 2015, you were enrolled in MVP Silver with a premium responsibility of \$274.93. The notice states:

Total Plan Cost: \$509.93
Less Premium Tax Credit, if applicable: \$235.00
Your Total Premium Cost: \$274.93

([REDACTED]

12. You testified that you never received an invoice from MVP to pay a monthly premium.
13. On November 24, 2015, MVP Health Care issued you an invoice (# [REDACTED]) stating that in order for your January 1, 2016, to be effective, payment for your 2015 health insurance premiums must be received by August 31, 2015, or your enrollment will be cancelled. The

invoice indicates an outstanding balance of \$2,749.30 (Appellant Exhibit A p. 6).

14. On December 7, 2015, MVP Health Care issued a notice stating that your coverage was no longer active. The notice states that your MVP Health Care coverage ended September 30, 2015 because you did not pay your premium payment by November 30, 2015 (Appellant Exhibit A p. 2).
15. You testified that you had a doctor's visit in October 2015, but have not received an invoice statement from the doctor's office to date.
16. You testified that you first requested an appeal in December 2015.
17. According to "Appeal Summary," in the Evidence Packet created in anticipation of your appeal, you contacted NYSOH customer service on December 16, 2015 and December 23, 2015. Complaints were filed regarding the cancellation of your health plan and reinstatement of your \$0.00 per month premium ([REDACTED]).

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

Applicable Law and Regulations

Advance Premium Tax Credit:

The advance premium tax credit (APTC) is 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 2014 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)).

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 the 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).

For annual household income in the range of at least 133% but less than 150% of the 2014 FPL, the expected contribution is between 3.02% and 4.02% of the household income (see 26 CFR § 1.36B-3T(g)(1), (IRS Rev. Proc. 2014-37)).

In an analysis of APTC eligibility, the determination is based on the FPL “for the benefit year for which coverage is requested (45 CFR § 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is \$27,910.00 for a five-person household (79 Fed. Reg. 3593, 3593).

APTC Premium Assistance

APTC Premium Assistance is available in New York State to a person who:

- 1) is a parent of a child under 21 years old;
- 2) has a household income greater than 138% of the FPL but less than or equal to 150% of the FPL for the applicable family size;
- 3) is not eligible for Medicaid;
- 4) is enrolled in a silver-level qualified health plan; and
- 5) is applying the full amount of the APTC to the cost of the plan

(N.Y. Soc. Serv. Law § 367-a(3)(e)).

Eligibility Redetermination During a Benefit Year:

NYSOH must redetermine the eligibility of an enrollee in a qualified health plan during the benefit year if it receives and verifies new information by an enrollee or identifies updated information through federal or state data sources (45 CFR § 155.330(a)).

If NYSOH identifies updated information based on data sources, regarding income, family size, or family composition, with the exception of information regarding death, the NYSOH must notify the enrollee regarding the updated information, as well as the enrollee’s projected eligibility determination (45 CFR § 155.330(e)(2)(i)(A)). NYSOH must allow an enrollee 30 days from the date of the notice to notify NYSOH that such information is inaccurate (45 CFR § 155.330(e)(2)(i)(B)). If the enrollee does not respond to the notice within the 30-day period, the enrollee’s existing eligibility determination must be maintained, without considering the updated information (45 CFR § 155.330(e)(2)(ii)(C)).

Legal Analysis

The issue is whether NYSOH improperly redetermined your eligibility your financial assistance as of July 19, 2015.

APTC Premium Assistance is available to a person who: (1) is a parent of a child under the age of 21; (2) has an annual household income that does not exceed 150% of the FPL; (3) not eligible for Medicaid; (4) enrolled in a silver-level qualified health plan, and (5) applies the full amount of APTC to the cost of their plan.

You expected to file your 2015 federal income tax return with the tax status of married filing jointly, with your spouse, and expected to claim your three minor children as dependents on that return. Therefore, you were in a five-person tax household.

The January 30, 2015 eligibility determination was based on an annual household income of \$41,600.00, which was the amount you entered as your total household's expected annual income for 2015.

An annual household income of \$41,600.00 equals 149.05% of the 2014 federal poverty level (FPL) for a five-person household. At 149.05% of the FPL, the expected contribution to the cost of the health insurance premium is 3.96% of income, or \$137.42 per month.

The maximum amount of advance premium tax credit (APTC) that can be awarded equals the cost of the second lowest cost silver plan in your county (\$372.38 per month) minus your expected contribution (\$137.42 per month), which equals \$234.96 per month. Therefore, NYSOH computed your APTC to be \$235.00 per month.

On March 13, 2015, NYSOH issued an enrollment notice confirming that as of March 12, 2015, you were enrolled in MVP Premier Silver Silver ST INN Dep25 (MVP Silver) health plan with a premium responsibility of \$0.00. The notice indicates that you were applying the entire \$235.00 APTC to your MVP Silver plan, and the remaining \$274.93 was going to be paid by New York State.

NYSOH must redetermine the eligibility of an enrollee in a qualified health plan during the benefit year if it receives and verifies new information by an enrollee or identifies updated information through federal or state data sources.

If NYSOH identifies updated information based on data sources, regarding income, family size, or family composition, NYSOH must issue a notice that contains the enrollee's projected eligibility determination.

On July 19, 2015 NYSOH issued a renewal notice stating, that based on federal and state data sources, you and your spouse were qualified to receive up to \$578.25 monthly of advance premium tax credit and cost-sharing reductions. The notice did not state whether you were eligible for the APTC Premium Assistance Program. The notice directed you to make changes to your account between July 16, 2015 and August 15, 2016, if a mistake about the people listed or about the health plan you've been enrolled in was made.

NYSOH must allow an enrollee 30 days from the date of the notice to notify NYSOH that such information is inaccurate. If the enrollee does not respond to the notice within the 30-day period, the enrollee's existing eligibility determination must be maintained, without considering the updated information.

NYSOH did not receive any updated information from you by August 15, 2015. Therefore, NYSOH was required to maintain your previous eligibility determination, without considering the information in the July 19, 2016 notice.

On August 17, 2015, NYSOH issued an enrollment notice confirming that as of August 16, 2015, you were enrolled in MVP Silver with a premium responsibility of \$274.93. The notice indicates that you were applying your \$235.00 toward the cost of your MVP Silver health plan and made no mention of your APTC Premium Assistance payment.

Since the record reflects that the amount of financial assistance that was applied to your health insurance premium was changed, without you making any modifications to your NYSOH account, NYSOH improperly redetermined your eligibility.

Decision

The July 19, 2015, eligibility determination notice is **RESCINDED** insofar as redetermining your eligibility for financial assistance as of September 1, 2015.

The August 17, 2015, enrollment notice confirming that you were enrolled in MVP Silver as of August 16, 2015, with a premium responsibility of \$274.93 is **RESCINDED**

The January 30, 2015, eligibility determination notice stating that you were eligible to receive up to \$235.00 monthly of advance premium tax credit, cost-sharing reductions and APTC Premium Assistance, if you apply all of your tax credit and enroll in a silver-level health plan, effective as of March 1, 2015 is **REINSTATED**.

The March 13, 2015, NYSOH enrollment notice confirming that as of March 12, 2015, you were enrolled in MVP Premier Silver Silver ST INN Dep25 (MVP Silver) health plan with a premium responsibility of \$0.00 is **REINSTATED**.

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 RETURNED to NYSOH's Plan Management Unit to effectuate your financial assistance and coverage in accordance with this decision.

Effective Date of this Decision: August 24, 2016

How this Decision Affects Your Eligibility

You were eligible to receive an advance premium tax credit of up to \$235.00 per month, effective March 1, 2015 through December 31, 2015.

You were eligible to receive cost-sharing reductions, effective March 1, 2015 through December 31, 2015.

You were eligible for the APTC Premium Assistance Program, effective March 1, 2015 through 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:

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- 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 July 19, 2015, eligibility determination notice is **RESCINDED** insofar as redetermining your eligibility for financial assistance as of September 1, 2015.

The August 17, 2015, enrollment notice confirming that you were enrolled in MVP Silver as of August 16, 2015, with a premium responsibility of \$274.93 is **RESCINDED**

The January 30, 2015, eligibility determination notice stating that you were eligible to receive up to \$235.00 monthly of advance premium tax credit, cost-sharing reductions and APTC Premium Assistance, if you apply all of your tax credit and enroll in a silver-level health plan, effective as of March 1, 2015 is **REINSTATED**.

The March 13, 2015, NYSOH enrollment notice confirming that as of March 12, 2015, you were enrolled in MVP Premier Silver Silver ST INN Dep25 (MVP Silver) health plan with a premium responsibility of \$0.00 is **REINSTATED**.

Your case is **RETURNED** to NYSOH's Plan Management Unit to effectuate your financial assistance and coverage in accordance with this decision.

You were eligible to receive an advance premium tax credit of up to \$235.00 per month, effective March 1, 2015 through December 31, 2015.

You were eligible to receive cost-sharing reductions, effective March 1, 2015 through December 31, 2015.

You were eligible for the APTC Premium Assistance Program, effective March 1, 2015 through December 31, 2015.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

