



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

Notice of Decision

Decision Date: July 14, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006800

[REDACTED]

Dear [REDACTED]

On June 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 4, 2016, eligibility determination notice and 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).

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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: July 14, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006800

[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 premium tax credits of up to \$434.00, as well as cost sharing reductions to you and your spouse's Silver level health plan was effective March 1, 2016?

Procedural History

On October 22, 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, NYSOH could not make a decision about whether you and your spouse would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2015 or you might lose the financial assistance you were currently receiving.

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

On December 21, 2015, an eligibility determination notice was issued finding you and your spouse newly eligible to purchase a qualified health plan at full cost effective January 1, 2016. The notice explained this was because you did not respond to the renewal notice within the required timeframe. As a result you no longer qualified to receive financial assistance to help pay for your coverage.

On December 22, 2015, an enrollment confirmation notice was issued confirming you and your spouse's enrollment in a Silver level health plan with a premium responsibility of \$933.90 per month starting January 1, 2016.

On February 2, 2016, NYSOH received your updated application for financial assistance with your health insurance. That day a preliminary eligibility determination was made finding you and your spouse newly eligible to receive advance payments of the premium tax credit up to \$434.00 per month, as well as cost sharing reductions if you enrolled in a Silver level health plan effective March 1, 2016.

On February 3, 2016, you contacted the NYSOH's Account Review Unit and appealed the application of the advance premium tax credits and cost-sharing reductions insofar as they were not applied to the months of January and February 2016.

On February 4, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were newly eligible to receive up to \$434.00 per month in advance payment of the premium tax credit, if you selected a silver-level qualified health plan, as well as cost-sharing reductions. This eligibility was effective March 1, 2016.

Also on February 4, 2016, NYSOH issued a letter confirming you and your spouse's enrollment in a qualified health plan with a monthly premium responsibility of \$499.90, after your APTC of \$434.00 was applied, effective January 1, 2016.

On June 21, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open 15 days for you to provide documentation. By the close of business the NYSOH appeals unit did not receive any documentation related to the date of phone conversations between NYSOH and your health plan.

Findings of Fact

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

- 1) Your NYSOH account indicates that you receive notices from NYSOH by regular mail.
- 2) You testified that you did receive the October 22, 2015, renewal notice from NYSOH.
- 3) You testified that your address has not changed since applying for insurance in 2015.

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- 4) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 5) You testified that you updated the information in your NYSOH account in December and believed that you had supplied income documentation in order to be found eligible for 2016.
- 6) The record reflects that the first time a NYSOH representative updated your account was February 2, 2016. You subsequently enrolled you and your spouse into a qualified health plan effective March 1, 2016.
- 7) You testified you paid the premium amounts for January, and February, 2016.
- 8) You testified that you had three separate conversations between Empire Blue Cross Blue Shield and NYSOH. You testified that the culmination of those discussions were that you did not update your account until February, 2016 and therefore did not qualify for the advance premium tax credits to be applied retroactively for those months until March 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 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 §

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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.

Redetermination During a Benefit Year

When an eligibility redetermination results in a change in the amount of APTC for a part of the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made (or not made) on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for the overall benefit year (45 CFR § 155.330(g)).

Any change resulting from redeterminations during a benefit year should be made effective the first day of the month following the date of the notice of redetermination, except that redeterminations resulting from changes made after a date specified by the state, which can be no earlier than the 15th of the month, may not be made effective until the first day of the month after the month following the date of the notice of redetermination. (45 CFR § 155.330(f)(1) and (2)). New York has specified that changes made after the 15th of a given month will take effect the month after the following month.

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take APTC 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 NYSOH 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).

Legal Analysis

The issue under review is whether NY State of Health (NYSOH) properly determined that the application of advance premium tax credits up to \$434.00, as well as cost-sharing reductions for you and your spouse's Silver level health plan 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 an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you would qualify for financial help with paying for your health coverage. You were asked to update the information in your account by December 15, 2015, or the financial help you were receiving might end.

Because there was no timely response to this notice, your eligibility for financial assistance and your enrollment in a qualified health plan was terminated effective December 31, 2015.

You testified that you did receive a notice from NYSOH telling you that you needed to update the information in your NYSOH account. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail and there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, the record reflects that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated in order to ensure your enrollment in your health plan and eligibility for financial assistance would continue.

You testified that you updated the information in your NYSOH account in December and believed that you had supplied income documentation in order to be found eligible for the 2016.

However, the record shows that the first time a NYSOH representative updated your account from the date of the renewal notice was February 2, 2016. You subsequently enrolled you and your spouse into a qualified health plan effective March 1, 2016. Since there is no evidence that any updates were made to your account prior to February 2, 2016 we must base the start date of your eligibility on that date.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the 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 from the first day to an including the fifteenth day of a month goes into effect on the first day of the following month.

Therefore, NYSOH's February 4, 2016, eligibility determination notice and enrollment confirmation notice are **AFFIRMED** because they properly began your

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enrollment in your qualified health plan as well as your advance premium tax credits on March 1, 2016.

At the end of a tax year, a person who elects to take APTC 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 NYSOH 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

Decision

The February 4, 2016, eligibility determination notice is AFFIRMED.

The February 4, 2016, enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: July 14, 2016

How this Decision Affects Your Eligibility

This decision does not change your or your spouse's eligibility.

You and your spouse's enrollment in your qualified health plan, and your eligibility for APTC and cost-sharing reductions properly began as of March 1, 2016.

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

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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:
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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The February 4, 2016, eligibility determination notice is AFFIRMED.

The February 4, 2016, enrollment confirmation notice is AFFIRMED.

This decision does not change your or your spouse's eligibility.

You and your spouse's enrollment in your qualified health plan, and your eligibility for APTC and cost-sharing reductions properly began as of March 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

