



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

Notice of Decision

Decision Date: July 21, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006881

[REDACTED]

Dear [REDACTED]

On June 29, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 21, 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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Decision

Decision Date: July 21, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006881



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 eligibility for advance payments of the premium tax credit should begin no earlier than March 1, 2016?

Procedural History

On October 19, 2015, you made updates to your NYSOH account.

On October 20, 2015, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible to receive advance payments of the premium tax credit (APTC) of up to \$241.00 per month, and conditionally eligible to receive cost-sharing reductions (CSR), effective December 1, 2015. You were directed to submit income documentation by January 17, 2016.

Also on October 20, 2015, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in a bronze level qualified health plan (QHP), effective August 1, 2015.

On October 24, 2015, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. The notice stated that, based on information available from state and federal data sources obtained as of October 4, 2015, you were eligible to receive up to \$129.29 per month in advance payments of the premium tax credit (APTC), effective January 1, 2016. The notice also stated that you had been re-enrolled into the same qualified

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health plan (QHP) you were currently enrolled in, with a plan start date of January 1, 2016.

On November 11, 2015, NYSOH issued another 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 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, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a QHP at full cost, effective January 1, 2016. The notice further stated that you were 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 23, 2015, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in your bronze level QHP at full cost, effective January 1, 2016.

On January 20, 2016, NYSOH received your updated application for health insurance.

On January 21, 2016, NYSOH issued a notice of eligibility redetermination stating that you were newly conditionally eligible to receive up to \$237.00 per APTC, and newly conditionally eligible to receive CSR, effective March 1, 2016.

Also on January 21, 2016, NYSOH issued a letter confirming your enrollment in your bronze level QHP, with a monthly premium responsibility of \$87.45, after your APTC of \$237.00 was applied, effective February 1, 2016.

On February 5, 2016, you spoke to NYSOH's Account Review Unit and appealed the January 21, 2016 eligibility determination, insofar as it began your financial assistance eligibility on March 1, 2016, and not January 1, 2016.

On February 18, 2016, NYSOH issued a cancellation notice stating that your insurance coverage with your bronze level QHP was cancelled effective January 1, 2016 because a premium payment had not been received.

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.

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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 may have received the October 24, 2015 renewal notice, but that you were under the impression that you were automatically renewed and did not need to do anything else.
- 3) You testified that you do not recall receiving the November 11, 2015 renewal notice from NYSOH telling you that you needed to update the information in your NYSOH account to ensure that your coverage would not be interrupted and that your financial assistance would continue.
- 4) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 5) You testified that you couldn't recall exactly why you updated your account in October of 2015, but that you think it was probably because you had moved to a new address.
- 6) You testified that a friend of yours told you that you should call and renew your coverage, so you called NYSOH on December 13, 2015. You testified that, while on hold, you were given the option to leave your name and number for a call back. You testified that you left your name and number.
- 7) You testified that you never received a call back from NYSOH. You testified that you did not call NYSOH again, and that you were out of the state for most of January 2016.
- 8) You testified that you updated your account in January 2016 because someone called you to tell you that you had not renewed your coverage.
- 9) You testified that you did not know that you were no longer receiving a tax credit until you got a bill in January or February of 2016 from your health plan for \$336.00. You testified that you called your health plan and were told you owed the full premium for January. You testified that you did not have the money to pay at that point, but that you did pay at some point after that.
- 10) You testified that your premium payment was refunded to you when your coverage was cancelled.

11) You testified that you are seeking to be reinstated in your insurance, with the application of your APTC, effective 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 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.

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

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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).

Appealable Issues

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination (45 CFR § 155.505), and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Legal Analysis

The issue under review is whether NYSOH properly determined that 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 24, 2015, NYSOH issued an annual renewal notice stating that you were conditionally eligible for up to \$129.29 in APTC, and eligible for CSR, effective January 1, 2016. However, that eligibility was based on information obtained from federal and state data sources as of October 4, 2015. Since you updated your NYSOH account on October 19, 2015, NYSOH again attempted to determine your eligibility for financial assistance in 2016 and could not. Therefore, NYSOH issued another annual renewal notice in your case. That

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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 was terminated effective December 31, 2015. You were found eligible to enroll in a full-cost QHP effective January 1, 2016, and were re-enrolled into the same bronze level QHP in which you had been enrolled in 2015, but at full cost.

You testified that you think you might have received the October 24, 2015 renewal notice regarding your eligibility, but that you recalled just thinking that you were automatically renewed and did not need to do anything. You testified that you did not remember receiving the November 11, 2015 renewal notice. You testified that you called NYSOH to update your account on December 13, 2015, two days before the December 15, 2015 deadline to renew, because a friend of yours told you that you should call. You testified that you were given the option while on hold to leave your name and number to receive a callback, and that you did leave your name and number, but never received a call from NYSOH.

There is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable. Moreover, though NYSOH did send two renewal notices that gave different information, there is insufficient evidence that your failure to renew was caused by your reliance on information from NYSOH. Rather, your testimony indicates that your failure to renew was caused by the fact that you presumed you would be automatically renewed, and by the fact that, though you called on December 13, 2015 to try to update your account, you did not make any additional efforts update your NYSOH account.

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, and you are found to have been on notice of the need to renew your eligibility.

The record shows that on January 19, 2016, you updated the information in your NYSOH account and submitted a request to enroll in a qualified health plan.

When an individual changes information in their application after the 15th of any month, NYSOH will make the redetermination that results from the change effective the first day of the second following month

Therefore, NYSOH's January 21, 2016 eligibility determination notice is **AFFIRMED** because it properly began your conditional eligibility for APTC and CSR on March 1, 2016.

Lastly, it is noted that you are not currently enrolled in coverage through NYSOH. Though you stated that you paid the full premium for January 2016, NYSOH cannot review this issue, as cancellation of coverage due to non-payment of premiums is an issue that is not reviewable by the Appeals Unit. If you wish to find out whether you would qualify for a special enrollment period to enroll in coverage before the next open enrollment begins, you must contact NYSOH to update your application and apply for a special enrollment period. If you are seeking to be retroactively reinstated in the QHP in which you were formerly enrolled, you can contact the health plan directly to find out whether you would be permitted to retroactively re-enroll in your plan.

Decision

The January 21, 2016 eligibility determination notice is **AFFIRMED**.

Effective Date of this Decision: July 21, 2016

How this Decision Affects Your Eligibility

This decision does not change your current eligibility.

Your conditional eligibility for APTC properly began as of March 1, 2016.

If you wish to find out whether you can enroll in coverage before open enrollment begins, you must contact NYSOH to update your application and to apply for a special enrollment period.

If you wish to seek retroactive reinstatement in your QHP, you must contact your health plan directly to find out whether you would be permitted to retroactively re-enroll in coverage.

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.

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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 20, 2016 eligibility determination notice is AFFIRMED.

This decision does not change your current eligibility.

Your conditional eligibility for APTC properly began as of March 1, 2016.

If you wish to find out whether you can enroll in coverage before open enrollment begins, you must contact NYSOH to update your application and to apply for a special enrollment period.

If you wish to seek retroactive reinstatement in your QHP, you must contact your health plan directly to find out whether you would be permitted to retroactively re-enroll in coverage.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

