



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

## Notice of Decision

Decision Date: July 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006939

[REDACTED]

Dear [REDACTED]

On July 8, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 21, 2015 and February 9, 2016 eligibility determination notices and the February 9, 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).

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## Decision

Decision Date: July 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006939



## 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 enrollment in a qualified health plan and the application of advance payments of the premium tax credit were effective no earlier than March 1, 2016?

## Procedural History

On October 24, 2015, NYSOH issued a renewal notice that stated, based on federal and state data sources. A decision about whether you qualified for financial assistance in 2016 could not be made. That notice instructed you to update the information in your NYSOH account by December 15, 2015 and, if you missed this deadline, the financial assistance you were getting might end.

On December 21, 2015, NYSOH issued a notice of eligibility redetermination that stated you were eligible to purchase a qualified health plan at full cost, effective January 1, 2016, because you had not responded to the renewal notice and updated the information in your NYSOH account.

On December 23, 2015, NYSOH issued an enrollment notice confirming that you were enrolled in a silver-level qualified health plan at full cost of \$516.11 and had an enrollment start date of January 1, 2016.

On February 9, 2016, based on your February 8, 2016 updated application, NYSOH issued a notice of eligibility redetermination that stated you were newly eligible to receive advance payments of the premium tax credit (APTC) of up to

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\$179.00 per month and eligible for cost sharing reductions, effective March 1, 2016.

Also on February 9, 2016, NYSOH issued an enrollment notice confirming your enrollment in a silver-level qualified health plan with a monthly premium responsibility of \$337.11 after your APTC of \$179.00 was applied, effective March 1, 2016.

On February 8, 2016, you spoke to NYSOH's Account Review Unit and appealed the eligibility redetermination and enrollment confirmation notices insofar as your financial assistance began on March 1, 2016 and not January 1, 2016.

On July 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 submitted an application to NYSOH for financial assistance on February 8, 2016.
- 2) You testified, and the record reflects, that you selected a qualified health plan on February 8, 2016.
- 3) Your enrollment in the plan became effective January 1, 2016, and you paid the full premiums of \$516.11 for the months of January 2016 and February 2016.
- 4) You testified that you need your eligibility for financial assistance to begin on January 1, 2016 because the health plan is not affordable at full cost.

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

## **Applicable Law and Regulations**

### Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date it is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may adopt a policy that any change made

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after the 15<sup>th</sup> of any month will not be effective until the first of the next following month (45 CFR § 155.330 (f)(2)), and it has elected to do so (13 OHIP/ADM-03).

When an eligibility redetermination results in a change in the amount of advance premium tax credit (APTC) for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already 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 benefit year (45 CFR § 155.330(g)).

### End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the advance premium tax credit 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 his or 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 or her 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 NYSOH properly determine that the application of APTC, was effective no earlier than March 1, 2016.

Initially, APTC generally cannot be applied retroactively; that is, in months that have already passed.

The record reflects that you were enrolled in a silver-level qualified health plan as of January 1, 2016 at full cost and, on February 8, 2016, updated the information in your NYSOH account and resubmitted a request to enroll in the same qualified health plan. On February 9, 2016, NYSOH issued notices of eligibility redetermination and enrollment that in respective part stated you were newly eligible to receive up to \$179.00 in APTC, effective March 1, 2016 and your APTC would be applied to your monthly premium effective March 1, 2016.

When an individual changes information in their application before the 15th of any month, NYSOH must make the redetermination that results from that change effective the first day of the following month. Therefore, NYSOH's February 9, 2016 notices of eligibility redetermination and enrollment were correct in finding that your eligibility for APTC and its application began March 1, 2016, strictly adhering to federal regulations.

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However, when APTC is recalculated mid-year, NYSOH is required to prorate monthly amounts to reflect APTC that has already been received and to ensure that the APTC you receive during the year is as close as possible to the overall tax credit you will be entitled to when you file your taxes for the 2016 tax year. It appears in your case that NYSOH did not do this. Instead, it simply found you eligible for the monthly amount to which you would have been entitled had you received APTC for the entire 12 months of the year.

Therefore, the February 9, 2016 eligibility redetermination notice is MODIFIED to state you are newly conditionally eligible to receive APTC effective March 1, 2016, at only a *tentative* rate of \$337.11 per month.

Your case is RETURNED to NYSOH to recalculate the amount of APTC to which you are eligible for the 10 months of the year for which you received (or will receive) APTC, by dividing your annual expected tax credit by 10 months of 2016, instead of 12 months. Once, this recalculation is complete, the amount of APTC to which you are entitled may increase prospectively over the remaining months of 2016 on a pro rata basis. NYSOH will notify you accordingly.

Any additional differences between the amounts of income you reported to NYSOH that was used to calculate and recalculate the amount of APTC to which you were entitled and your actual gross income for 2016 can be reconciled when you file your 2016 federal income tax return.

## **Decision**

The February 9, 2016 eligibility redetermination notice is MODIFIED to state you are newly conditionally eligible to receive APTC effective March 1, 2016, at only a *tentative* rate of \$337.11 per month.

Your case is RETURNED to NYSOH to recalculate the amount of APTC to which you are eligible for the 10 months of the year for which you received (or will receive) APTC, by dividing your annual expected tax credit by 10 months of 2016, instead of 12 months. Once, this recalculation is complete, the amount of APTC to which you are entitled may increase prospectively over the remaining months of 2016 on a pro rata basis. NYSOH will notify you accordingly.

**Effective Date of this Decision:** July 12, 2016

## **How this Decision Affects Your Eligibility**

You were eligible to enroll in a qualified health plan at full cost, effective January 1, 2016, and were enrolled in your silver-level qualified health plan, effective January 1, 2016.

You are tentatively eligible to receive up to \$179.00 in APTC effective March 1, 2016; this amount may change depending on NYSOH's mid-year recalculation.

Any additional differences between the amounts of income you reported to NYSOH that was used to calculate and recalculate the amount of APTC to which you were entitled and your actual gross income for 2016 can be reconciled when you file your 2016 federal income tax return.

## **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:

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- By fax: 1-855-900-5557

## Summary

The February 9, 2016 eligibility redetermination notice is MODIFIED to state you are newly conditionally eligible to receive APTC effective March 1, 2016, at only a *tentative* rate of \$337.11 per month.

Your case is RETURNED to NYSOH to recalculate the amount of APTC to which you are eligible for the 10 months of the year for which you received (or will receive) APTC, by dividing your annual expected tax credit by 10 months of 2016, instead of 12 months. Once, this recalculation is complete, the amount of APTC to which you are entitled may increase prospectively over the remaining months of 2016 on a pro rata basis. NYSOH will notify you accordingly.

You were eligible to enroll in a qualified health plan at full cost, effective January 1, 2016, and were enrolled in your silver-level qualified health plan, effective January 1, 2016.

You are tentatively eligible to receive up to \$179.00 in APTC effective March 1, 2016; this amount may change depending on NYSOH's mid-year recalculation.

Any additional differences between the amounts of income you reported to NYSOH that was used to calculate and recalculate the amount of APTC to which you were entitled and your actual gross income for 2016 can be reconciled when you file your 2016 federal income tax return.

## Legal Authority

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



**A Copy of this Decision Has Been Provided To:**

