



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

## Notice of Decision

Decision Date: August 23, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006944



Dear [REDACTED],

On August 18, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's November 25, 2015 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: August 23, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006944



## 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 you and your spouse's enrollment in a full pay qualified health plan was effective as of January 1, 2015?

## Procedural History

On December 18, 2014 NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive up to \$643.00 per month in advance premium tax credits (APTC). You and your spouse were also eligible to receive cost-sharing reductions and the APTC Premium Assistance Program if you selected a silver level health plan. This eligibility was effective January 1, 2015. The notice also stated that your two children were eligible for Medicaid, effective December 1, 2014.

Also on December 18, 2014 NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a silver level qualified health plan effective January 1, 2015, and that your premium responsibility was \$0.00 after the application of your APTC and Premium Assistance from NY State.

On September 15, 2015 NYSOH issued a renewal notice stating that based on federal and state data sources a decision could not be made as to whether you, your spouse, or your children qualified for financial assistance. You were asked to update your account by November 15, 2015 or the financial assistance your family was receiving might end.

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On November 22, 2015 NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a full pay qualified health plan effective December 1, 2015. You were no longer eligible for financial assistance because you did not timely respond to the renewal notice.

On November 25, 2015 NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a silver level qualified health plan effective January 1, 2015, and that your premium responsibility was \$796.35. There were not tax credits applied to your premium amount.

On February 8, 2016 you spoke to NYSOH's Account Review Unit and appealed the November 25, 2015 enrollment confirmation notice because the system retroactively cancelled your and your spouse's financial assistance eligibility retroactively back to January 1, 2015.

On August 18, 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) On January 25, 2016 a complaint (# [REDACTED]) was filed on you and your spouse's behalf. That complaint stated that:

On 11/16, the system automatically re-ran the application and the consumer and his wife were found eligible for QHP enrollment and lost their Premium Assistance all the way back to 1/1/2015. The consumer and his wife were not due for renewals and their enrollment should not have been affected by the children's renewal.

- 2) On February 12, 2015 an update was made to complaint # [REDACTED] stating that:

Coverage is showing for Fidelis Care Silver ST INN Couple Plan for 1/1/15-12/31/15. An incident has been submitted to have the APTC and State Subsidy applied to the full year 2015 premium. It may take several weeks for the incident to be resolved. We have also notified plan management who will contact the plan directly notifying of the revision(s) made.

- 3) A note in your NYSOH account states that an incident was submitted to have your APTC and state subsidy re-applied to the 2015 premium for you and your spouse's 2015 qualified health plan.
- 4) The enrollment history tab in your NYSOH account indicates that you and your spouse were eligible for the APTC Premium Assistance Program and that you were enrolled in a silver level qualified health plan from January 1, 2015 through December 31, 2015.
- 5) On April 11, 2016 you uploaded a letter to your NYSOH account. That letter stated that you had contacted your plan and your issue has not been resolved. Furthermore, you indicated that you believe that a corrected 1095-A form that you had received was incorrect.
- 6) You testified that you and your spouse had to file an extension to file your 2015 tax return because of the issues you have been having with NYSOH.
- 7) On April 14, 2016 another complaint (# [REDACTED]) was filed stating that Complaint # [REDACTED] had been resolved and that your APTC would be conveyed to the plan. An update to that complaint was made on August 15, 2016 stating that the file to your plan had failed.
- 8) You testified that you are receiving numerous bills from medical providers as a result of you and your spouse being retroactively disenrolled from your financial assistance that you were eligible for in 2015.

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

## **Applicable Law and Regulations**

### 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)).

### Annual Eligibility Redetermination

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).

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 and 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.

### Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every 12 months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

### 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 NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15<sup>th</sup> of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of advance payments of the 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 that benefit year (45 CFR § 155.330(g)).

## Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse's enrollment in a full pay qualified health plan was effective as of January 1, 2015.

On December 18, 2014 NYSOH issued a notice stating that you and your spouse were eligible to receive up to \$643.00 per month in APTC, cost-sharing reductions and the APTC Premium Assistance Program. You both subsequently enrolled into a silver level qualified health plan with a \$0.00 premium responsibility. In that same December 18, 2014 notice, your children were found eligible for Medicaid, effective December 1, 2014.

When a person is receiving coverage through Medicaid, their eligibility must be redetermined every twelve months.

On September 15, 2015 NYSOH issued a renewal notice stating that based on federal and state data sources a decision could not be made as to whether you, your spouse, or your children qualify for financial assistance. You were asked to update your account by November 15, 2015 or the financial assistance your family was receiving might end.

Because there was no response to this renewal notice your and your spouse's eligibility for financial assistance was cancelled retroactively to January 1, 2015.

However, unlike Medicaid which is on a twelve month renewal cycle, NYSOH must redetermine an individual's eligibility for APTC and cost-sharing reductions annually for coverage beginning the first day of the new year. The September 15, 2015 renewal notice should have ONLY asked you to renew your children's eligibility as their twelve month coverage would be up as of November 30, 2015.

It is clear from the facts of this case that NYSOH has already acknowledged through complaints # [REDACTED] and # [REDACTED] the enrollment history tab, and a note in your NYSOH account, that you and your spouse should have been eligible for APTC, cost-sharing reductions, and the APTC Premium Assistance Program for all of 2015 based on the information that you entered into your application. Therefore, a full discussion of the merits of your case is not needed.

The November 25, 2015 enrollment confirmation notice stating that you and your spouse were enrolled in a silver level qualified health plan effective January 1, 2015, and that your premium responsibility was \$796.35, is **RESCINDED**.

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Please note that the Appeals Unit only has authority to issue decisions based on eligibility determinations made by NYSOH. As it appears your issues of eligibility have been resolved on NYSOH's end, your case is being RETURNED to the Plan Management unit to ensure proper conveyance of your and your spouse's eligibility and enrollment to your qualified health plan provider. Further, NYSOH is directed to ensure that the information contained on your 1095-A form is accurate after your plan receives the corrected information.

## **Decision**

The November 25, 2015 enrollment confirmation notice is RESCINDED because it improperly stated that you and your spouse had \$0.00 in financial assistance applied to your qualified health plan as of January 1, 2015.

As it appears your issues of eligibility have been resolved on NYSOH's end, your case is being RETURNED to the Plan Management unit to ensure proper conveyance of your and your spouse's eligibility and enrollment to your qualified health plan provider. Further, NYSOH is directed to ensure that the information contained on your 1095-A form is accurate after your plan receives the corrected information.

**Effective Date of this Decision:** August 23, 2016

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

NYSOH improperly cancelled your and your spouse's eligibility for financial assistance retroactively to January 1, 2015.

Your case is being netback to ensure proper conveyance of your and your spouse's eligibility and enrollment to your qualified health plan provider.

## **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.

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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 November 25, 2015 enrollment confirmation notice is **RESCINDED** because it improperly stated that you and your spouse had \$0.00 in financial assistance applied to your qualified health plan as of January 1, 2015.

NYSOH improperly cancelled your and your spouse's eligibility for financial assistance retroactively to January 1, 2015.

As it appears your issues of eligibility have been resolved on NYSOH's end, your case is being **RETURNED** to the Plan Management unit to ensure proper conveyance of your and your spouse's eligibility and enrollment to your qualified health plan provider. Further, NYSOH is directed to ensure that the information contained on your 1095-A form is accurate after your plan receives the corrected information.

### **Legal Authority**

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

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

