



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

Notice of Decision

Decision Date: August 2, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007014

[REDACTED]

Dear [REDACTED],

On July 12, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 2, 2016 eligibility determination notice, February 2, 2016 notice of enrollment, and June 22, 2016 disenrollment 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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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine that the application of advance payments of the premium tax credit was effective no earlier than March 1, 2016?

Did NYSOH properly determine that your qualified health plan coverage terminated as of June 30, 2016?

Procedural History

On October 24, 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 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 eligible to enroll in a qualified health plan at full cost because you did not qualify 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

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within the required time frame. This eligibility determination notice was effective January 1, 2016.

Also on December 22, 2015, NYSOH issued a notice of enrollment in a qualified health plan with a monthly premium responsibility of \$296.73, effective January 1, 2016.

On February 1, 2016, NYSOH received your updated application for health insurance.

On February 2, 2016, NYSOH issued a notice of eligibility redetermination notice stating that you were newly eligible to receive up to \$161.00 per month in advance payment of the premium tax credits (APTC). This eligibility was effective March 1, 2016.

On February 2, 2016, NYSOH issued a notice of enrollment confirming your enrollment in a qualified health plan with a monthly premium responsibility of \$135.73, after your APTC of \$161.00 was applied, effective March 1, 2016.

On February 10, 2016 you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it began your eligibility for an APTC of up to \$161.00 per month on March 1, 2016, and not January 1, 2016.

On June 22, 2016, NYSOH issued a disenrollment notice stating that your request to your qualified health plan coverage was received on June 21, 2016. This meant that your coverage would end effective June 30, 2016.

On July 12, 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) The record reflects that you elected to receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you did not receive any electronic alerts regarding any renewal notice in your NYSOH account telling you that you needed to update your application in order to renew your eligibility for financial assistance.
- 3) There is no evidence in your account to show that NYSOH sent you any email alerts, or that a notice was sent to you through regular mail as to the need for you to update your application.

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- 4) You testified that you did not know that you needed to update your account until early February 2016 when you realized that automatic withdrawals in the amount of \$293.73 had already been remitted from your financial institution to the insurance carrier for the months of January and February of 2016.
- 5) The record reflects that on February 1, 2016, NYSOH received your updated application for health insurance.
- 6) You testified that you were seeking an application of the APTC of \$161.00 to be credited to your premium payments made during January and February 2016, such that that you may be entitled to a total refund from the insurance carrier of \$322.00.
- 7) You testified that you had enrolled in an employer-sponsored health plan, and that such coverage began on or about June 4, 2016.
- 8) You testified, and the record reflects, that you requested a disenrollment from your health plan being issued through NYSOH on June 21, 2016.
- 9) You testified that as a result of having your coverage through the NYSOH terminated as of June 30, 2016, you were effectively being charged for having two concurrent policies in plan during the month of June 2016.
- 10) You testified that you were seeking to be reimbursed for the \$135.73 premium amount you paid for coverage through NYSOH during the month of June 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)).

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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 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.

Electronic Notices

If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

Qualified Health Plan Termination

The Marketplace must permit an enrollee to terminate his or her coverage with a qualified health plan, including when an enrollee obtains minimum essential coverage, with appropriate notice to the Marketplace or qualified health plan (45 CFR § 155.430(b)(1), (d)).

For enrollee-initiated terminations, the last day of coverage is either:

- 1) The termination date specified by the enrollee, if the enrollee provides reasonable notice (at least 14 days before the requested termination date);
- 2) Fourteen days after the enrollee requests the termination, if they do not provide reasonable notice; or
- 3) On a date on or after the date the enrollee requests the termination, if the enrollee's qualified health plan issuer and the enrollee agree to such a date

(45 CFR § 155.430(d)(2)(i)-(iii)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your eligibility for an APTC of up to \$161.00 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 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 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, including APTC, was terminated effective December 31, 2015.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the renewal notice, which directed you to update the information in your NYSOH account. There is no evidence in your account documenting that any email alert or notice through the regular mail was sent to you regarding the renewal notice or the need to renew your application.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account.

You first renewed your eligibility for financial assistance through NYSOH for 2016 on February 1, 2015, and therefore we must infer that this is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

Therefore, the February 2, 2016 eligibility determination notice and notice of enrollment are MODIFIED to state that, effective January 1, 2016, you were eligible to receive up to \$161.00 in APTC per month.

Your case is RETURNED to the NYSOH to facilitate the application of an APTC of \$161.00 to the premium amounts you remitted to the insurance carrier during January and February 2016, and to assist in the processing of reimbursement amounts, if any.

The second issue under review is whether NYSOH properly determined that the coverage provided by your QHP ended on June 30, 2016.

Enrollees must be allowed to terminate their coverage with a QHP if they provide appropriate notice to the Marketplace or to their health plan.

You testified that you paid the \$135.73 premium to your insurance carrier for your June 2016 health insurance coverage. You further testified that you enrolled in your employer-sponsored health, with such coverage to begin on or about June 4, 2016. However, the record reflects that you did not request to terminate your health insurance coverage through the Marketplace until June 21, 2016. Therefore, NYSOH properly terminated your insurance coverage with your insurance carrier effective June 30, 2016, which is the last day of the month following your request.

Therefore, the June 22, 2016 disenrollment notice stating that your health plan coverage ended as of June 30, 2016 is AFFIRMED.

Decision

The February 2, 2016 eligibility determination notice and notice of enrollment are MODIFIED to state that, effective January 1, 2016, you were eligible to receive up to \$161.00 in APTC per month.

Your case is RETURNED to NYSOH to effectuate the changes listed above.

The June 22, 2016 disenrollment notice is AFFIRMED.

Effective Date of this Decision: August 2, 2016

How this Decision Affects Your Eligibility

Your eligibility for APTC should have begun as of January 1, 2016.

Your case is being sent back to NYSOH to effectuate this change.

Your health plan coverage was properly terminated effective June 30, 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 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 2, 2016 eligibility determination notice and notice of enrollment are MODIFIED to state that, effective January 1, 2016, you were eligible to receive up to \$161.00 in APTC per month.

Your case is RETURNED to NYSOH to effectuate the changes listed above.

The June 22, 2016 disenrollment notice is AFFIRMED.

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Your eligibility for APTC should have begun as of January 1, 2016.

Your case is being sent back to NYSOH to effectuate this change.

Your health plan coverage was properly terminated effective June 30, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

