



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: AP000000007071

[REDACTED]

Dear [REDACTED]

On July 18, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 2, 2016 eligibility determination notice and the February 2, 2016 notice of enrollment.

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: AP000000007071

[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 was effective March 1, 2016?

## Procedural History

On October 22, 2015, 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 22, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan (QHP) at full cost since you were found 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. Your eligibility ended December 31, 2015.

Also on December 22, 2015, NYSOH issued a notice of enrollment confirming your enrollment in a QHP with a monthly premium responsibility of \$597.13, 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 eligible to receive up to \$226.00 per month in advance payment of the premium tax credit (APTC) and, if you selected a silver-level QHP, newly eligible for cost-sharing reductions (CSR). This eligibility was effective March 1, 2016.

Also on January 21, 2016, NYSOH issued a notice of enrollment confirming your enrollment in a QHP with a monthly premium responsibility of \$597.13, without any application of the \$226.00 in APTC, effective March 1, 2016.

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

On February 2, 2016, NYSOH issued a notice of eligibility redetermination stating that you were newly eligible to receive up to \$226.00 per month in advance payment of the premium tax credit (APTC) and, if you selected a silver-level QHP, newly eligible for cost-sharing reductions (CSR). This eligibility was effective March 1, 2016.

Also on February 2, 2016, NYSOH issued a notice of enrollment confirming your enrollment in a QHP with a monthly premium responsibility of \$371.13, after applying the maximum APTC amount of \$226.00, effective March 1, 2016.

On February 12, 2016, you spoke to NYSOH's Account Review Unit and appealed the February 2, 2016 eligibility determination and notice of enrollment insofar as it began the application of your APTC on March 1, 2016, and not January 1, 2016.

On July 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) Your NYSOH account indicates that you receive notices from NYSOH by regular mail. You testified, and the record reflects, that during November

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2013 you elected to receive electronic alerts of NYSOH notifications being posted to your account. You further testified, however, that after experiencing some technical difficulties in retrieving those notices from your account, you immediately switched your election back to receiving notices from NYSOH by regular mail.

- 2) You testified that you did not receive any notices 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.
- 3) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 4) You testified that you did not know you needed to renew your application until late January or early February when you received a bill from your insurance carrier requesting that you remit approximately \$452.00. This amount represented the APTC you were expecting to have been applied to the premiums due for the months of January and February of 2016.
- 5) You testified that you not only paid the \$371.13 premium due for each month, as requested by the insurance carrier, but also the \$452.00 amount to bring your account current through February 29, 2016.
- 6) The record reflects that you updated the information in your NYSOH account on February 1, 2016 and, at that time, elected to apply the entire APTC amount to the cost of your monthly premium.
- 7) You testified that you were seeking to have the \$226.00 applied to the premium amounts you paid during January and February of 2016, such that you may be entitled to a reimbursement totaling \$452.00.

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

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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 15<sup>th</sup> 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 15<sup>th</sup> 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 NYSOH properly determined that your eligibility for APTC 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 was terminated effective December 31, 2015.

You testified that you did not receive any 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. However, 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.

The record shows that on February 1, 2016, you updated the information in your NYSOH account and elected to apply the entire amount of your APTC toward the premium.

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.

Therefore, NYSOH's February 2, 2016 eligibility determination notice and enrollment notice are **AFFIRMED** because they properly began your APTC on March 1, 2016.

## **Decision**

The February 2, 2016 eligibility determination notice is AFFIRMED.

The February 2, 2016 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** July 21, 2016

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

This decision does not change your eligibility.

Your eligibility for APTC 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 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

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## **Summary**

The February 2, 2016 eligibility determination notice is AFFIRMED.

The February 2, 2016 enrollment confirmation notice is AFFIRMED.

This decision does not change your eligibility.

Your eligibility for APTC 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:**

