



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

Notice of Decision

Decision Date: August 03, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007087

[REDACTED]

Dear [REDACTED],

On July 19, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 17, 2016 eligibility determination notice and the February 17, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: August 03, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007087

[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 you and your spouse were no longer eligible for advance payments of the premium tax credit, effective February 1, 2016?

Procedural History

On November 19, 2015, you updated your NYSOH account and applied for health insurance for yourself, your spouse, and your oldest daughter.

On November 22, 2015, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive up to \$413.00 in advance payments of the premium tax credit (APTC) and eligible to receive cost-sharing reductions (CSR), effective January 1, 2016. The notice also stated that your oldest daughter was no longer eligible for Medicaid, but that her Medicaid coverage would continue until January 31, 2016 and that she would have to come back between December 17, 2015 and January 16, 2016 to update her application for health insurance.

On December 5, 2015, NYSOH issued an enrollment confirmation notice confirming your enrollment and your spouse's enrollment in a platinum-level qualified health plan (QHP), effective January 1, 2016, with the application of your tax credit to your monthly premium also beginning on January 1, 2016.

On December 23, 2015, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year; the notice specifically referred to you, your spouse, and your oldest daughter as needing to renew. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you, your spouse, and your oldest daughter would qualify for financial help paying for your health coverage, and that you needed to update your account by January 15, 2016, or you might lose the financial assistance you were currently receiving.

No updates were made to your account by January 15, 2016.

On January 17, 2016, NYSOH issued an eligibility determination notice stating that your daughter was not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. She also could not enroll in a qualified health plan at full cost. This was because she had not responded to the renewal notice and had not completed her renewal within the required time frame. Her eligibility ended January 31, 2016.

On January 17, 2016, NYSOH also issued a disenrollment notice stating that your daughter's coverage would end effective January 31, 2016 because her coverage had not been renewed.

Also on January 17, 2016, NYSOH issued an eligibility determination stating that you and your spouse were newly eligible to purchase a QHP at full cost, effective February 1, 2016. The notice further stated that you and your spouse were not eligible for Medicaid Child Health Plus, the Essential Plan, or APTC because you did not respond to the renewal notice and had not completed your renewal within the required timeframe.

On January 17, 2016, NYSOH also issued an enrollment confirmation notice stating that you and your spouse were enrolled in your couple's platinum-level QHP at full cost, effective January 1, 2016.

On February 16, 2016, your NYSOH account was updated, and NYSOH prepared a preliminary eligibility determination stating that you and your spouse were eligible for up to \$413.00 in APTC, and eligible for CSR, effective April 1, 2016.

Also on February 16, 2016 you spoke to NYSOH's Account Review Unit and appealed the preliminary eligibility determination insofar as it began your financial assistance eligibility on April 1, 2016, and not February 1, 2016.

On February 17, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive up to \$413.00 in APTC and

eligible for CSR, effective April 1, 2016. Your daughter was eligible for Medicaid effective February 1, 2016.

That same day, NYSOH also issued an enrollment confirmation notice confirming your enrollment in your couple's platinum-level QHP effective January 1, 2016, with the application of your APTC to your monthly premium to begin on March 1, 2016.

On July 19, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The hearing was held with the assistance of a Mandarin language interpreter, ID # [REDACTED]. 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 testified that you received a tax credit toward your premium in January 2016.
- 2) You testified that you received an invoice from your health plan in February that showed that you owed the full premium amount for February 2016.
- 3) You testified that you called your health plan and told them that you had a tax credit. You testified that the person you spoke with at the health plan told you that you could just pay the amount due after the credit.
- 4) You testified that you receive an invoice for the full premium amount again for March 2016.
- 5) You testified that you paid only the amount due after the tax credit for February 2016, but paid the full premium for March 2016.
- 6) You testified that you believe the other portion of the premium for February 2016 is still outstanding.

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 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).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse were no longer eligible for advance payments of the premium tax credit, effective February 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.

You updated your application for health insurance for yourself and your spouse on November 19, 2015, within the open enrollment period for 2016, and were found eligible for APTC and CSR, effective January 1, 2016. Therefore, you and your spouse were not due to have an annual eligibility redetermination until the next open enrollment period. However, because your daughter's eligibility for Medicaid was ending as of January 31, 2016, NYSOH properly sent a renewal notice stating that your NYSOH account needed to be updated so that a determination could be made as to her eligibility.

Since you and your spouse were not due to renew your eligibility, NYSOH erred in including you and your spouse on the December 23, 2015 renewal notice. Likewise, NYSOH erred in terminating your APTC and CSR as of the end of January 31, 2016 when your account was not again updated. You and your spouse should have remained enrolled in your QHP, with the continued application of your APTC and CSR.

Therefore, the following changes are made to correct this error:

The January 17, 2016 eligibility determination stating that you and your spouse were newly eligible to purchase a QHP at full cost is **RESCINDED**.

The January 17, 2016 enrollment confirmation notice stating that you and your spouse were enrolled in your QHP at full cost, effective January 1, 2016, is RESCINDED.

The February 17, 2016 eligibility determination notice is MODIFIED to state that you and your spouse are eligible to receive up to \$413.00 in APTC, and eligible for CSR, effective January 1, 2016.

The February 17, 2016 enrollment confirmation notice is MODIFIED to state that your enrollment and your spouse's enrollment in your QHP, as well as the application of your APTC, started as of January 1, 2016.

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

Decision

The January 17, 2016 eligibility determination notice pertaining to you and your spouse is RESCINDED.

The January 17, 2016 enrollment confirmation notice is RESCINDED.

The February 17, 2016 eligibility determination is MODIFIED to state that you and your spouse are eligible for up to \$413.00 in APTC, and eligible for CSR, effective January 1, 2016.

The February 17, 2016 enrollment confirmation notice is MODIFIED to state that your enrollment and your spouse's enrollment in your couple's platinum-level QHP, as well as the application of your APTC, began on January 1, 2016.

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

Effective Date of this Decision: August 03, 2016

How this Decision Affects Your Eligibility

You and your spouse were eligible for up to \$413.00 in APTC and eligible for CSR, effective January 1, 2016.

Your enrollment, and your spouse's enrollment, in your QHP, along with the application of your APTC to your monthly premium, should have started on January 1, 2016 and should continue with no gap in coverage.

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).

Your case is being returned to NYSOH to make the changes to your coverage so that there is no gap in your eligibility for APTC and CSR, and no gap in your coverage in your QHP.

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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The January 17, 2016 eligibility determination notice pertaining to you and your spouse is **RESCINDED**.

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).

The January 17, 2016 enrollment confirmation notice is RESCINDED.

The February 17, 2016 eligibility determination is MODIFIED to state that you and your spouse are eligible for up to \$413.00 in APTC, and eligible for CSR, effective January 1, 2016.

The February 17, 2016 enrollment confirmation notice is MODIFIED to state that your enrollment and your spouse's enrollment in your couple's platinum-level QHP, as well as the application of your APTC, began on January 1, 2016.

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

You and your spouse were eligible for up to \$413.00 in APTC and eligible for CSR, effective January 1, 2016.

Your enrollment, and your spouse's enrollment, in your QHP, along with the application of your APTC to your monthly premium, should have started on January 1, 2016 and should continue with no gap in coverage.

Your case is being returned to NYSOH to make the changes to your coverage so that there is no gap in your eligibility for APTC and CSR, and no gap in your coverage in your QHP.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

