



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

Notice of Decision

Decision Date: August 04, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007152

[REDACTED]

Dear [REDACTED],

On July 21, 2016, your son, [REDACTED], appeared as your authorized representative by telephone at a hearing on your appeal of NY State of Health's October 23, 2015 and January 7, 2016 eligibility determination notices, and the January 7, 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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Issues

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

Did NY State of Health properly determine that you and your spouse were eligible for up to \$478.95 in advance payments of the premium tax credit, effective January 1, 2016?

Did NY State of Health properly determine that you and your spouse were eligible for, and enrolled in, an Essential Plan, effective February 1, 2016?

Procedural History

On October 23, 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 obtained from federal and state data sources as of October 3, 2015, you and your spouse were eligible for up to \$478.95 per month in advance payments of the premium tax credit (APTC), effective January 1, 2016. The notice further stated that you and your spouse were re-enrolled in your current health plan for another year, and that if the information in your application was still accurate and you wanted to keep your current plan for the upcoming year, you did not need to do anything more. If you needed to make changes, you would need to update your account between November 16, 2015 and December 15, 2015 in order for any such changes to be in effect by January 1, 2016.

On November 25, 2015, NYSOH issued an enrollment confirmation notice, stating that you and your spouse were enrolled in your Healthfirst silver level qualified health plan with a monthly premium of \$401.11. The notice further

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stated that your plan enrollment and the application of your APTC would begin on January 1, 2016.

On January 6, 2016, your NYSOH account was updated.

On January 7, 2016, NYSOH issued a notice of eligibility determination, based on your January 6, 2016 application, stating that you and your spouse were eligible to enroll in the Essential Plan, with no monthly premium, effective February 1, 2016.

Also on January 7, 2016, NYSOH issued a notice of enrollment, based on your plan selection on January 6, 2016, stating that you and your spouse were enrolled in an Essential Plan, and that your plan would start on February 1, 2016.

On February 17, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment and your spouse's enrollment in the Essential Plan insofar as it did not begin January 1, 2016.

On July 21, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your spouse initially appeared by telephone and authorized your son, [REDACTED], to act as the authorized representative for this hearing. The remainder of the hearing was conducted with your son. 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 son testified that he is the person who handles issues related to your NYSOH account on behalf of you and your spouse.
- 2) Your son testified that he lives at the same address as you and your spouse.
- 3) Your son testified that he is the one who initially created your NYSOH account and filed your initial application for health insurance.
- 4) Your son testified that he recalls signing you and your spouse up for automatic renewal of coverage.
- 5) The record reflects, and your son's testimony confirms, that you are enrolled to receive electronic alerts regarding notices from NYSOH.
- 6) Your son testified that the email address in your NYSOH account is his email address.

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- 7) Your son testified that he did receive the October 23, 2015 renewal notice informing you that you and your spouse had been re-enrolled into your same health plan for 2016, and that you had been found eligible for up to \$478.95 in APTC beginning January 1, 2016.
- 8) Your son testified that he was under the impression that, because the plan was the same as the plan in which you were enrolled in 2015, the costs would also be the same.
- 9) The record reflects that you and your spouse were eligible for APTC of \$645.00 per month in 2015, based on an annual household income of \$27,200.00.
- 10) The record reflects that your eligibility and your spouse's eligibility for APTC as of January 1, 2016 was based on income information that NYSOH obtained from available state and federal data sources as of October 3, 2015.
- 11) The October 23, 2015 renewal notice indicates that the annual income NYSOH used to make its determination of your eligibility was above \$39,825.00, but below \$63,720.00.
- 12) Your son testified that, when he reviewed the October 23, 2015 renewal notice, he initially thought that the information stating that your income was higher than \$39,825.00 was correct.
- 13) Your son further testified that, when he got the bill for the premium and saw how much it was, he went back over all of your income information and realized that your household income was lower than what NYSOH had stated, so he updated your application on January 6, 2016.
- 14) The record reflects that the October 23, 2015 renewal notice contained a paragraph on page three which stated that the cost of your Healthfirst silver level plan was \$880.07 per month, before the application of any tax credits.
- 15) The record reflects that the November 25, 2015 enrollment confirmation notice states that the monthly premium for you and your spouse's coverage was \$401.11, beginning January 1, 2016.
- 16) Your son testified that he was not aware that the plan's premium would be approximately \$400.00 per month, after the application of your APTC, until after he received the invoice from your health plan.

- 17) Your son testified that he believes it was an administrative error that you and your spouse were enrolled in a qualified health plan with APTC for January 2016.
- 18) Your son testified that you did not pay the premium for your health plan in the month of January.
- 19) Your son testified that you have medical bills from January 2016.
- 20) Your son testified that you want your and your spouse's eligibility for, and enrollment in, an Essential Plan to begin on January 1, 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)).

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 or her 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)).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see also 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your spouse were eligible for up to \$478.95 in APTC, effective January 1, 2016.

NYSOH must generally conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through NYSOH with the cost of their health insurance. NYSOH is required to send an annual renewal notice that contains the information by which NYSOH will make a projected eligibility determination for the upcoming coverage year, and that requests that the qualified individual/s provide updated income and household size information for use in determining eligibility for the upcoming year. If there is no response to this notice, NYSOH must determine eligibility based on the projected eligibility contained in the renewal notice.

Your son testified that he requested automatic renewal of your and your spouse's coverage, and the record confirms this. Based on this, NYSOH automatically re-enrolled you and your spouse in your same health insurance plan for 2016. Additionally, as required by law, NYSOH redetermined your and your spouse's eligibility for financial assistance based on information available from state and federal data sources.

The October 23, 2015 renewal notice contained information regarding your projected eligibility for 2016, and also advised you that, if any of the information

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was inaccurate or needed updating, you should update your account between November 16, 2015 and December 15, 2015. Since no updates were made to your account by December 15, 2015, NYSOH implemented the projected eligibility determination contained in the October 23, 2015 notice.

Your son testified that you and your spouse paid a much lower premium in 2015, and that he assumed your premium would be the same or very similar in 2016, based on the fact that the renewal notice stated that you had been re-enrolled in the same plan. However, the record reflects that you and your spouse received \$645.00 in APTC in 2015, as opposed to the \$478.95 you and your spouse were determined eligible for in 2016. Since your tax credit was lower for the upcoming year, you would be responsible for paying a greater amount toward your monthly premium.

The October 23, 2015 renewal notice plainly stated that \$478.95 would be your new APTC amount. It also stated that the findings in the notice were based on an income of between \$39,825.00 and \$63,720.00. Moreover, it directed you to update your account by December 15, 2015 if any of the information contained in the notice was incorrect, and no updates were made to your account as of December 15, 2015; therefore, the \$478.95 in APTC went into effect as of January 1, 2016.

Your son also testified that he did not know that the premium for you and your spouse's coverage would be approximately \$400.00 each month until he received an invoice from your health plan. However, the record reflects that the October 23, 2015 renewal notice contained a paragraph on page three that stated that the cost of your health plan, before any tax credit was applied, was \$880.07 per month. Therefore, since the notice contained both your projected APTC amount and the cost of the premium, determining your monthly premium cost is only a matter of subtracting the stated APTC from the stated premium. Moreover, the November 25, 2015 enrollment confirmation notice also clearly stated that you and your spouse were responsible for a premium of \$401.11, effective January 1, 2016.

Therefore, since you requested to be automatically re-enrolled in coverage, and since NYSOH did not err in making a projected eligibility determination based on the information that was available from state and federal data sources, the October 23, 2015 eligibility determination is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your eligibility and your spouse's eligibility for, and enrollment in, the Essential Plan was effective February 1, 2016.

The record indicates that your son updated your NYSOH application on January 6, 2016. As a result, you and your spouse were found eligible for the Essential Plan as of February 1, 2016, and enrolled into a plan that day.

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The date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

On January 6, 2016, your son selected an Essential Plan for you and your spouse, so your enrollment properly took effect on the first day of the first month following January; that is, on February 1, 2016.

Your son testified that your coverage should be backdated to January 1, 2016 because your income would have made you eligible for Essential Plan coverage in that month, and that it was an administrative error that caused you and your spouse to be enrolled in a qualified health plan with APTC in January 2016. However, it has already been determined that NYSOH acted in accordance with the law when it implemented the projected eligibility determination stated in the October 23, 2015 renewal notice, and that you were on notice of both the range of income your eligibility was based on, and the amount of your premium for which you and your spouse would be responsible. Since your son did not update the income information in your NYSOH account until January 6, 2016, NYSOH's determination that you and your spouse were eligible for, and enrolled in, Essential Plan coverage as of February 1, 2016 was correct.

Therefore, the January 7, 2016 eligibility determination and the January 7, 2016 enrollment confirmation notices must be AFFIRMED.

Decision

The October 23, 2015 eligibility determination is AFFIRMED.

The January 7, 2016 eligibility determination is AFFIRMED.

The January 7, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: August 04, 2016

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

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 effective date of your and your spouse's Essential Health Plan coverage is February 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
- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The October 23, 2015 eligibility determination is AFFIRMED.

The January 7, 2016 eligibility determination is AFFIRMED.

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The January 7, 2016 enrollment confirmation notice is AFFIRMED.

This decision does not change your eligibility.

The effective date of your and your spouse's Essential Health Plan coverage is February 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:

