



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

## Notice of Decision

Decision Date: July 19, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007190

[REDACTED]

Dear [REDACTED]

On July 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 21, 2015 eligibility determination 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.

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## Decision

Decision Date: July 19, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007190

[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 did not respond to the renewal notice within the proper time frame and that you did not qualify for financial assistance, effective January 1, 2016?

## Procedural History

On January 13, 2015, you submitted an application to NYSOH requesting financial assistance.

On January 14, 2015, NYSOH issued an eligibility determination notice stating that you were conditionally eligible to receive up to \$167.00 per month in advance premium tax credits and, if you enrolled in a silver level health plan, cost-sharing reductions. This eligibility was effective February 1, 2015.

On January 14, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled in as silver level health plan with advance premium tax credits that could start as early as February 1, 2015.

On October 24, 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.

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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, effective January 1, 2016. You were not eligible for advance premium tax credits and cost-sharing reductions because you had not responded to the renewal notice and had not completed your renewal within the required time frame.

On December 22, 2015, NYSOH issued a disenrollment notice stating that your enrollment in your silver level qualified health plan with advance premium tax credits would end December 31, 2015.

Also on December 22, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled into a silver level qualified health plan at full cost and that your coverage would start January 1, 2016.

On December 30, 2015, your NYSOH account was updated. That day, an application stating that you did not need financial assistance for paying for health coverage was submitted.

On December 31, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in a qualified health plan at full cost, effective February 1, 2016.

Also on December 31, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled into a silver level qualified health plan at full cost and that your coverage would start January 1, 2016.

On February 16, 2016, your NYSOH account was updated. That day, an application requesting financial assistance for paying for health coverage was submitted.

On February 17, 2016, NYSOH issued an eligibility determination notice, based on the February 16, 2016 application, stating that you were eligible to enroll in the Essential Plan for a limited time, effective April 1, 2016.

On February 18, 2016, NYSOH issued a disenrollment notice stating that your enrollment in your silver level qualified health plan would end effective March 31, 2016.

Also on February 18, 2016, NYSOH issued an enrollment confirmation notice stating that your enrollment in an Essential Plan would start as of April 1, 2016.

Finally on February 18, 2016 you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as you were not eligible for financial assistance in January 2016.

On July 7, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you gave the Hearing Officer permission to listen to conversations that you had with representatives from NYSOH. The record was developed during the hearing and closed on July 11, 2016 after the Hearing Officer was able to listen to pertinent recorded conversations.

## **Findings of Fact**

A review of the record support the following findings of fact:

- 1) Your NYSOH account indicates that you receive alerts from NYSOH by email.
- 2) You testified that you did receive alerts from NYSOH telling you that there was important account information in your inbox. However, you did not access your account because you receive alerts all of the time and most of them are not important.
- 3) You testified that you contacted NYSOH in December and you were told by a representative to not worry about not responding to the renewal notice because you had been auto-enrolled into the same plan from 2015 and that the only thing that changed was the premium.
- 4) You testified that you called NYSOH again on December 30, 2015 because you had discovered your out of pocket expenses and deductible had increased when you were auto-enrolled.
- 5) A review of the telephone conversation with a NYSOH representative on December 30, 2015 indicates the following:
  - a. You placed the call because you discovered that your deductible for 2016 had been reset and the amount of money you would have to pay out of pocket had increased. You were informed by a representative that your plan's deductible is reset every year.
  - b. A representative then proceeded to update your account with income information to see if you would qualify for financial assistance. You agreed that your household income was around \$45,600.00.

- c. As a result of your income, you were told you were Medicaid eligible. You said that you did not want Medicaid because you were pregnant and your doctor did not accept Medicaid and that you needed to have your qualified health plan.
  - d. A representative informed you that if you did not want Medicaid, you would have to submit a non-financial application so that you could have your qualified health plan.
  - e. You stated that you were ok with not having tax credits if you could just have your health plan back for the month of January.
  - f. A representative confirmed with you that you did not want Medicaid because of your pregnancy and that you were switched to a non-financial application so that you could have a qualified health plan. You agreed to this.
- 6) The record indicates that at the time of the December 30, 2015 telephone conversation, you were pregnant and expecting to delivery one child. You further expected to file your tax return as married filing jointly with your spouse and claim three children as dependents.
- 7) You testified that through this appeal you are seeking to have your advance premium tax credits and cost-sharing reductions from your 2015 plan applied to your 2016 plan because you relied on statements made by NYSOH.

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 §

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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.

### Medicaid

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2015 FPL, which is \$32,570.00 for a six-person household (80 Fed. Reg. 3236, 3237).

For purposes of Medicaid eligibility, however, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman, but also the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

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Medicaid is currently available to pregnant women who have a modified adjusted gross income at or below 223% of the FPL for the applicable family size (see 42 CFR § 435.116(c); NY Department of Health Administrative Directive 13ADM-03).

People who receive or are eligible for Medicaid are not eligible for APTC since they have, or will soon have, active coverage in the system. They will be enrolled or remain in their Medicaid plan for 12 months, with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, failing to provide a valid Social Security number, or having third party health insurance (N.Y. Soc. Serv. Law § 366(4)(c)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you did not respond to the renewal notice within the proper time frame and that you did not qualify for financial assistance, effective January 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 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, 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, effective January 1, 2016. You were not eligible for cost-sharing reductions and cost-sharing reductions because you had not responded to the renewal notice and had not completed your renewal within the required time frame.

The record indicates that you were then enrolled into your previous qualified health plan without financial assistance. Your coverage in that plan was set to begin as of January 1, 2016.



You testified that you did receive alerts from NYSOH telling you that there was important account information in your inbox. However, you did not access your account because you receive alerts all of the time and most of them are not important.

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.

Furthermore, the record indicates that when you did call to update the financial information in your NYSOH account you agreed that your household income was around \$45,600.00. You would have been considered to be a part of a six-person household because you were pregnant and expecting to deliver one child, and filing your tax return as married filing jointly with your spouse and claiming three children as dependents.

Pregnant adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 223% of the FPL for the applicable family size are eligible for Medicaid. On the date of your application, the relevant FPL was \$32,570.00 for a six-person household. Since \$45,600.00 is 140.01% of the 2015 FPL, the financial assistance program you would have been eligible for in the month of January, would have been Medicaid. Individuals who are eligible for Medicaid are not eligible to receive advance premium tax credits and cost-sharing reductions. When an NYSOH representative informed you of this, you said that you did not want Medicaid because you were pregnant and your doctor did not accept Medicaid and that you needed to have your qualified health plan.

Since you did not respond to the renewal notice in the required time frame, and because you expressly told an NYSOH representative that you did not want Medicaid in the month of January 2016, NYSOH properly determined that you were not eligible for financial assistance effective January 1, 2016.

The December 21, 2015 eligibility determination notice stating that you were eligible to enroll in a qualified health plan at full cost, effective January 1, 2016 is AFFIRMED.

## **Decision**

The December 21, 2015 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** July 19, 2016

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

This decision does not change your eligibility.

You were not eligible for financial assistance effective January 1, 2016.

This decision has no effect on your eligibility for and enrollment in the Essential Plan as of April 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:  
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- By fax: 1-855-900-5557

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## **Summary**

The December 21, 2015 eligibility determination notice is AFFIRMED.

This decision does not change your eligibility.

You were not eligible for financial assistance effective January 1, 2016.

This decision has no effect on your eligibility for and enrollment in the Essential Plan as of April 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:**

