



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

Notice of Decision

Decision Date: September 8, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007529

[REDACTED]

Dear [REDACTED],

On August 26, 2016, your mother, [REDACTED], appeared by telephone as your Authorized Representative at a hearing on your appeal of the NY State of Health's November 4, 2014 renewal notice and February 9, 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:

Was the November 4, 2014 eligibility determination notice subject to appeal as of February 29, 2016?

Are you eligible for reimbursement of the health insurance premium that you paid for coverage during February and March 2016?

Procedural History

On November 4, 2014, NYSOH issued a renewal notice, stating that for the upcoming year, you would be eligible to receive up to \$268.92 per month in advance payments of the premium tax credit (APTC), effective January 1, 2015, based on income between \$29,175.00 and \$46,680.00. You would be reenrolled in your current plan, and there was nothing else you needed to do. If NYSOH had made a mistake, you needed to update your account between November 16, 2014 and December 15, 2014 in order for such changes to be in effect by January 1, 2015. The notice also provided examples of changes in your life of which you should inform NYSOH.

On December 9, 2014, NYSOH issued a notice of enrollment confirming your selection of a qualified health plan (QHP) as of November 18, 2014. The notice further confirmed that your coverage would begin effective January 1, 2015.

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

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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 for the upcoming coverage year, 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 not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You were eligible to enroll in a QHP at full cost. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame. Your eligibility for financial assistance ended as of December 31, 2015.

On December 22, 2015, NYSOH issued a notice of enrollment confirming that you had been reenrolled in your QHP at full cost. The notice stated that your coverage would begin effective January 1, 2016.

On February 8, 2016, NYSOH received a revised application for health insurance. In response to this application, NYSOH prepared a preliminary eligibility determination stating that you were eligible to enroll in Medicaid effective February 1, 2016. No written eligibility determination notice was issued formalizing the findings contained in the February 2, 2016 preliminary eligibility determination.

On February 9, 2016, NYSOH issued a disenrollment notice confirming that your request to end your QHP insurance coverage was received on February 8, 2016. The notice stated that your coverage would end effective February 29, 2016.

Also on February 9, 2016, NYSOH issued a notice of enrollment confirming your selection of a Medicaid Managed Care (MMC) plan as of February 8, 2016. The notice confirmed that your MMC coverage would begin effective March 1, 2016.

On February 29, 2016, you spoke to NYSOH's Account Review Unit and appealed (1) the APTC amount you received during the 2015 plan year insofar as it caused you to have a liability when you filed your 2015 tax return and (2) that you were seeking reimbursement of your QHP premium amounts paid during February and March 2016 as a result of you having been found eligible for Medicaid, effective February 1, 2016.

On August 26, 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 had been found eligible for an APTC of up to \$268.92 per month, effective January 1, 2015. No further updates to your application had been received prior of February 2, 2016.
- 2) Your Authorized Representative stated that you incurred a tax liability of approximately \$700.00 when you filed your 2015 tax return. Your Authorized Representative further stated that she wanted a review of APTC awarded to you during 2015 since it was not calculated correctly.
- 3) The record reflects that you first contacted NYSOH to request an appeal on February 29, 2016.
- 4) You were found eligible for Medicaid on February 8, 2016, with Medicaid Fee-For-Service coverage beginning February 1, 2016.
- 5) Your Authorized Representative stated that you paid \$138.36 per month for your QHP coverage during the months of February and March 2016. Your Authorized Representative further stated that this amount represented the monthly premium you had been pay to your QHP insurance carrier during the 2015 plan year, and not the full-cost premium amount of \$452.77 as reflected in the December 22, 2015 notice of enrollment.
- 6) Your Authorized Representative stated that you were seeking to not only to have you case reviewed to resolve the \$700.00 tax liability you incurred after filing your 2015 tax return, but also to seeking reimbursement of the premiums your paid during the months of February and March 2016 since you were found eligible for Medicaid effective February 1, 2016.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Appealable Issues

An applicant has the right to appeal to the Appeals Unit of NYSOH: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an

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exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination; and (5) the denial of a request for a special enrollment period (45 CFR § 155.505, 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(1)).

Qualified Health Plan (QHP) 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

On February 29, 2016, you spoke with NYSOH's Account Review Unit and appealed the November 4, 2014 eligibility determination notice.

Eligibility determinations may be appealed within 60 days of issue. Since the November 4, 2014 eligibility determination notice was issued more than 60 days before February 29, 2016, the appeal was untimely as to that determination and is dismissed. The November 4, 2014 eligibility determination continues in effect, and NYSOH Appeals Unit will not address the question of your eligibility for APTC during the 2015 plan year.

It is also noted that the renewal notice for the 2015 coverage year specifically stated that if your income should change, you would need to advise NYSOH of that fact.

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The next issue under review is whether you are entitled to reimbursement for the health insurance premiums you paid during February and March 2016.

The record reflects that you were found eligible for Medicaid effective February 1, 2016 based on the information contained in your February 8, 2016 application. The record also reflects that you selected a MMC plan for your Medicaid coverage on February 8, 2016. This coverage went into effect on March 1, 2016.

NYSOH issued a disenrollment notice on February 9, 2016 confirming receipt of your request to end your QHP coverage. The notice confirmed that your QHP coverage ended effective February 29, 2016.

You testified that you paid a premium of \$138.36 per month for coverage during February and March 2016.

Federal regulations that governs the transition of a newly eligible person from a QHP to Medicaid does not provide any authority for full or partial reimbursement of premiums for any period during which coverage under the two systems may have overlapped.

Therefore, you are not eligible to be reimbursed for premium amounts you paid for coverage during February 2016 when you were simultaneously enrolled in both Medicaid Fee-For-Service and your QHP.

However, since you were disenrolled from your QHP effective February 29, 2016, you should not have been charged a premium for your coverage during the month of March 2016.

Therefore, your case is RETURNED to NYSOH to facilitate a reimbursement of premium amounts you paid, if any, for QHP coverage during month of March 2016.

Decision

The February 29, 2016 appeal of the November 4, 2014 eligibility determination notice is untimely and is DISMISSED.

Your case is RETURNED to NYSOH to facilitate a reimbursement of premium amounts you paid, if any, for QHP coverage during month of March 2016.

Effective Date of this Decision: September 8, 2016

How this Decision Affects Your Eligibility

You are not eligible to be reimbursed for premium amount you paid for QHP coverage during February 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 29, 2016 appeal of the November 4, 2014 eligibility determination notice is untimely and is DISMISSED.

You are not eligible to be reimbursed for premium amount you paid for QHP coverage during February 2016.

Your case is RETURNED to NYSOH to facilitate a reimbursement of premium amounts you paid, if any, for QHP coverage during month of March 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

