



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

## Notice of Decision

Decision Date: August 30, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007680

[REDACTED]

Dear [REDACTED],

On August 19, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's December 5, 2014 eligibility determination notice and February 16, 2016 cancellation 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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## Decision

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NY State of Health Account ID: [REDACTED]  
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## Issues

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

Was the December 5, 2014 eligibility determination notice subject to appeal as of March 4, 2016?

Can the NY State of Health (NYSOH) Appeals Unit consider your appeal regarding the cancellation of enrollment for you and your spouse in your qualified health plan effective February 1, 2016 because of non-payment of premiums?

## Procedural History

On November 25, 2014, NYSOH received an application for health insurance.

On December 5, 2014, NYSOH issued an eligibility determination notice based on the information contained in the November 25, 2014 application. The notice stated that you, your spouse and your daughter were eligible for an advance premium tax credit (APTC) of up to \$595.00 per month, effective January 1, 2015.

On December 18, 2014, NYSOH issued a notice of enrollment confirming the enrollment of you, your spouse and daughter in a qualified health plan (QHP) as of November 26, 2014. The notice further confirmed that your coverage would begin effective January 1, 2015.

On December 24, 2015, NYSOH received a revised application.

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On December 25, 2015, NYSOH issued an eligibility redetermination notice based on the information contained in the December 24, 2015 application. It stated that you and your spouse were eligible to purchase a QHP at full cost through NYSOH, effective February 1, 2016.

On January 30, 2016, NYSOH issued a notice of enrollment confirming that you and your spouse selected a QHP on January 29, 2016. The notice further confirmed that coverage for you and your spouse under this QHP would begin February 1, 2016, provided that you paid the monthly premium to start and keep your coverage.

On February 16, 2016, NYSOH issued a cancellation notice confirming that coverage for you and your spouse under the QHP was cancelled effective February 1, 2016 due to non-payment of premiums.

On March 4, 2016, you spoke to NYSOH's Account Review Unit and appealed (1) the APTC amount you received during the 2015 plan year and (2) that coverage for you and your spouse under your QHP had been cancelled effective February 1, 2016.

On August 19, 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, your spouse, and your daughter had been found eligible for an APTC of up to \$595.00 per month, effective January 1, 2015.
- 2) You testified that your 2015 eligibility was based on an erroneous application submitted on your behalf by a NYSOH representative, which reflected a far lower income than what you anticipated during 2015. You further testified that this was due to the NYSOH representative insisting that overtime income amount should not be included as part of your annual household income.
- 3) You testified that as a result of the under estimation of your 2015 income on the application submitted on November 25, 2014, you incurred a federal tax liability of over \$7,000.00 on your 2015 tax return.
- 4) The record reflects that you first contacted NYSOH to request an appeal on March 4, 2016.

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- 5) The record reflects that you and your spouse enrolled in a QHP at full cost with an effective date of February 1, 2016.
- 6) You testified, and the record reflects, that on February 3, 2016, you contacted NYSOH to report enrollment issues with your QHP. You were requesting reinstatement of your QHP, effective February 1, 2016.
- 7) You testified that you contacted NYSOH multiple times during February 2016 to request that the effective date of QHP now take effect on March 1, 2016, because the month of February had elapsed, without your being able to use it. You requested this because you were seeking a reimbursement of the premium you paid for coverage during February 2016.
- 8) You testified that your QHP confirmed with NYSOH that your health plan was made effective February 1, 2016, rather than March 1, 2016.
- 9) The record reflects that coverage for you and your spouse was cancelled effective February 1, 2016 due to non-payment of premiums, as reflected in a cancellation notice issued on February 16, 2016. This coverage had not been reinstated through NYSOH.
- 10) You testified that you were seeking a review of your APTC your household was found eligible for during 2015 and a review of the effective date of your QHP during 2016. You further testified that you were no longer seeking a review of whether you and your spouse were eligible for a special enrollment period since your understanding was that you have been covered by your QHP since February 1, 2016.
- 11) You testified that your insurance carrier insisted that you contact NYSOH to file an appeal since their internal records reflect that you and your spouse are enrolled in the QHP through NYSOH.

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

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and level of cost-sharing reductions; (3) an eligibility determination for an 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)).

## **Legal Analysis**

On March 4, 2016, you spoke with NYSOH's Account Review Unit and appealed the December 5, 2014 eligibility determination notice.

Eligibility determinations may be appealed within 60 days of issue. Since the December 5, 2014 eligibility determination notice was issued more than 60 days before March 6, 2016, the appeal was untimely as to that determination and is dismissed. The December 5, 2014 eligibility determination continues in effect, and NYSOH Appeals Unit does not reach the question of your eligibility for APTC based on your November 25, 2014 application.

It is noted that even if the appeal had been timely, any discrepancy in the amount of APTC to which you should have been entitled would still have to be reconciled by the time you filed your tax return for the relevant year, and the overage would still need to be repaid.

The next issue under review is whether NYSOH Appeals Unit can consider your appeal regarding the cancellation of you and your spouse's enrollment in your QHP effective February 1, 2016 because of non-payment of premiums.

The February 16, 2016 cancellation notice issued to your NYSOH account reflects that the enrollment of you and your spouse in your QHP was cancelled effective February 21, 2016 for non-payment of premiums. You testified that you paid the required premium for coverage during February 2016 pending a resolution on whether coverage for you and your spouse could be backdated from March 1, 2016 to February 1, 2016. However, you further testified that a resolution came too late during the month of February 2016 for it to be of any use. You were effectively seeking a reversal of your retroactive start date approval from March 1, 2016 to February 1, 2016, in order to recoup the premium you paid for coverage during February 2016.

The NYSOH Appeals Unit only has the authority to review issues related to the following: (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

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premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by NYSOH to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the NYSOH Appeals Unit.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether or you and your spouse were properly terminated from your QHP with for non-payment of premiums. Therefore, your appeal of you and your spouse's disenrollment from your QHP as of February 1, 2016 is DISMISSED as a non-appealable issue.

## **Decision**

The March 4, 2016 appeal of the December 5, 2014 eligibility determination notice is untimely and is DISMISSED.

Your appeal of you and your spouse's disenrollment from your QHP as of February 21, 2016 for non-payment of premiums is DISMISSED as a non-appealable issue.

**Effective Date of this Decision:** August 30, 2016

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

Your eligibility is unchanged.

You and your spouse's QHP coverage through NYSOH was terminated effective February 1, 2016.

This decision has no effect on any coverage you have with a plan outside of NYSOH.

## **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

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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  
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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The March 6, 2016 appeal of the December 5, 2014 eligibility determination notice is untimely and is DISMISSED.

Your appeal of you and your spouse's disenrollment from your QHP as of February 21, 2016 for non-payment of premiums is DISMISSED as a non-appealable issue.

Your eligibility is unchanged.

You and your spouse's QHP coverage through NYSOH was terminated effective February 1, 2016.

### **Legal Authority**

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

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**A Copy of this Decision Has Been Provided To:**

