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

Notice of Decision

Decision Date: October 25, 2016

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000007904

Dear [redacted],

On October 17, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 5, 2014 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.

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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DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: October 25, 2016

NY State of Health Account ID:
Appeal Identification Number: AP000000007904

Issue

The issue presented for review by the Appeals Unit of NY State of Health (NYSOH) is:

> Was the December 5, 2014 eligibility determination notice subject to appeal as of November 30, 2015?

Procedural History

On November 21, 2014, NYSOH received your initial application for health insurance.

On December 5, 2014, NYSOH issued an eligibility determination notice based on the information contained in the November 21, 2014 application. The notice stated that you and your spouse were eligible for an advance premium tax credit (APTC) of up to $387.00 per month and, if you selected a silver-level plan, eligible for cost-sharing reductions, effective January 1, 2015, based on your declared income of $37,430.00. The notice also stated that you and your spouse were found ineligible for Medicaid.

On December 18, 2014, NYSOH issued a notice of enrollment confirming your selection of a qualified health plan (QHP) with a monthly premium responsibility of $325.30, after your APTC of $387.00 was applied, effective January 1, 2015.

On October 22, 2015, NYSOH issued a notice that it was time to renew your family's 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 and your spouse would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2015 or you and your spouse might lose the financial assistance you were currently receiving.

On November 16, 2015, NYSOH received a revised application for health insurance.

On November 25, 2015, NYSOH issued an eligibility redetermination notice based on the information contained in the November 16, 2015 application. It stated that you and your spouse were eligible for Medicaid. This eligibility determination notice was effective November 1, 2015.

Also on November 25, 2016, NYSOH issued a disenrollment notice confirming that your QHP coverage would end effective November 30, 2015. This was because both you and your spouse were no longer eligible to remain enrolled in that health plan.

The record reflects that on or about November 30, 2015, you contacted NYSOH to request that your December 5, 2014 eligibility determination for APTC, CSR and enrollment in a QHP be rescinded in favor of being eligible for Medicaid due to a mistake in your application submitted as of November 21, 2014.

On April 8, 2016, NYSOH received a total of 31 pages of documentation which included, but not limited to: (1) your written statement clarifying why you were entitled to Medicaid for the period between January 1, 2015 and October 31, 2015, and a reimbursement of all QHP premiums paid for coverage between January 2015 and November 2015, (2) premium billing statements issued by your QHP insurance carrier, (3) a copy of your complaint submitted to NYS Dept. of Financial Services (NYSDOFS), (4) a notice issued by NYSDOFS, dated March 8, 2016, stating that the proper recourse is to file an appeal with NYSOH, (5) 2013 and 2014 tax returns, each with a corresponding Schedule C.

On October 17, 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) On November 21, 2014, you submitted your initial application to NYSOH for health insurance. You attested in this application to an annual household income of $37,430.00, which was comprised of $52,817.00 in business income your spouse received, and was offset by $15,387.00

relating to deductions your spouse expected to claim in connection with his business expenses.

2) On December 5, 2014, you and your spouse were found eligible to enroll in a QHP and receive an APTC of up to $387.00 per month.

3) You enrolled in a bronze-level QHP on at a cost of $325.30 per month, after the $387.00 monthly tax credit. You coverage under this plan began January 1, 2015.

4) You testified that you contacted the NYSOH to renew your coverage on or about November 16, 2015. In this application, you attested to an annual household income of $12,540.00. Based on this information contained in this application, you and your spouse were found eligible for Medicaid, effective November 1, 2015.

5) You testified that based on the NYSOH's finding that you were eligible for Medicaid as of November 1, 2015, which was based on your renewal application, you and your spouse should have also been found eligible for Medicaid at least as early as January 1, 2015 since your income had not changed markedly.

6) You testified that the NYSOH representative erroneously computed your income on your November 21, 2014 application by reducing your spouse's gross income on your 2013 tax return ($52,817.00 – line 1) by his net profit and loss ($8,321.00 – line 31), rather than by his total expenses ($29,109.00 – line 28). As a result, you and your spouse were erroneously found eligible to enroll in a QHP and receive APTC, rather be found eligible for Medicaid.

7) You testified that you only became aware of this error when you submitted your revised application on November 16, 2015 for the renewal of your insurance at that time. The record reflects that the first time you contacted NYSOH to object to the December 5, 2014 eligibility determination notice was on November 30, 2015 when you spoke with a NYSOH representative.

8) You testified that you seeking for you and your spouse to be found eligible for Medicaid beginning January 1, 2015, and received reimbursement for approximately $3,578.30 in premiums you paid for the 11 months of coverage under your QHP during the 2015 plan year.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (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 exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 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

The only issue under review is whether your appeal of NYSOH's December 5, 2014 eligibility determination notice was timely.

On December 5, 2014, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in a QHP and receive an APTC of up to $387.00 per month. This notice also found you and your spouse ineligible for Medicaid.

The record reflects that the first time you called NYSOH to file a complaint in regards to your family's eligibility was on November 30, 2015.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of your eligibility as stated in the December 5, 2015 eligibility determination notice, an appeal should have been filed by February 3, 2015. According to the credible evidence in the record, you did not contact NYSOH until November 30, 2015 to make a formal complaint in connection with your eligibility, which is well beyond 60 days from the December 5, 2014 eligibility determination notice. You testified that it was not until November 16, 2015 when you began to realize your December 5, 2014 eligibility determination may have been made in error since you were found eligible for Medicaid based on the renewal of your application on November 16, 2015, even though your income had not changed markedly. The December 5, 2014 notice stated "[y]ou have 60 days from the date on your eligibility notice to ask for an appeal." However, the record reflects that you took no steps to challenge the

findings contained in the December 5, 2015 eligibility determination notice on or before February 3, 2015, which was the deadline to appeal that determination.

Therefore, there has been no timely appeal of the December 5, 2014 eligibility determination notice, and your appeal on the issue of the eligibility of you and your spouse is DISMISSED.

Decision

Your appeal of the December 5, 2014 eligibility determination notice is untimely and is DISMISSED.

Effective Date of this Decision: October 25, 2016

How this Decision Affects Your Eligibility

The eligibility you and your spouse remains the same.

Your eligibility for Medicaid began effective November 1, 2015.

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

Your appeal of the December 5, 2014 eligibility determination notice is untimely and is DISMISSED.

The eligibility you and your spouse remains the same.

Your eligibility for Medicaid began effective November 1, 2015.

Legal Authority

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:

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