



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

Notice of Decision

Decision Date: October 14, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008075

[REDACTED]

Dear [REDACTED],

On September 14, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 12, 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 (NYSOH) properly determine that your enrollment in a qualified health plan was effective January 1, 2016?

Did NYSOH properly determine that the application of advance payments of the premium tax credit (APTC) to your health plan premium began on April 1, 2016?

Procedural History

On October 23, 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.

On December 14, 2015 and December 15, 2015, you updated your NYSOH account.

On December 16, 2015, NYSOH issued a notice of eligibility redetermination stating that you were newly conditionally eligible to receive up to \$136.00 per month in APTC and, if you selected a silver-level qualified health plan (QHP), for cost-sharing reductions (CSR). This eligibility was effective January 1, 2016.

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On December 20, 2015, NYSOH issued a letter confirming your enrollment in a QHP with a monthly premium responsibility of \$555.39, with none of your APTC applied to the premium, effective January 1, 2016.

On March 11, 2016, you updated your NYSOH account.

On March 12, 2016, NYSOH issued a letter confirming your enrollment in your QHP as of January 1, 2016, and confirming the application of your APTC to your monthly premium as of April 1, 2016.

On March 18, 2016, you spoke to NYSOH's Account Review Unit and appealed the enrollment confirmation insofar as it began your enrollment in your QHP on January 1, 2016, and insofar as it began the application of your APTC on April 1, 2016.

On September 14, 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 renewed your eligibility online for financial assistance on December 14 and 15, 2015.
- 2) You testified that, after you renewed your application, you selected the same QHP in which you had been enrolled in 2015 for your 2016 coverage.
- 3) You testified that, in 2015, you had no problems with your coverage, and that your QHP automatically debited your account each month for your premium.
- 4) You testified that you thought that you had set everything up to have the same automatic payments in 2016.
- 5) You testified that you tried to use your QHP coverage in January 2016 at a pharmacy and were told that you did not have coverage.
- 6) You testified that you contacted your QHP, and they informed you that they were behind in processing enrollments, and not to worry about anything.

- 7) You testified that you contacted your QHP again in February 2016, and they told you again that they were backlogged with processing accounts.
- 8) You testified that you tried to make a premium payment in both January 2016 and February 2016, but were told by your QHP that you could not because your account had not yet been set up.
- 9) You testified that you spoke to your QHP in March 2016 and were told that your coverage had been cancelled.
- 10) You testified that your QHP told you that you had to make a request to be reinstated, and you did so.
- 11) You testified that your QHP reinstated you in your coverage, but required you to pay the premiums for the months of January, February, and March 2016 before you could be reinstated in your coverage. You testified that you made these premium payments.
- 12) The record reflects that your enrollment in your QHP was updated in March 2016, and your APTC was applied to your monthly premium beginning in April 2016.
- 13) You testified that it was your intention to apply your APTC to your account as of January 1, 2016, and that you were not aware that you had not chosen to apply the tax credits.
- 14) You testified that you believe you did receive the enrollment confirmation notice in December 2015, but that you did not notice that the APTC had not been applied to your monthly premium.
- 15) You testified that you did not incur any medical expenses for the months of January, February, or March 2016 because you were concerned about having bills since your insurance coverage was showing as not active at the time.
- 16) You testified that you are seeking to be reimbursed for the premium payments you made for January, February, and March 2016 because you were not able to use your coverage for any of those months.

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

Applicable Law and Regulations

Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health 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)). 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)).

Appealable Issues

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 (155.405), 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)).

Advance Payments of Premium Tax Credit

APTC are generally available to a person who is eligible to enroll in a QHP and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on NYSOH application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your enrollment in your QHP was 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 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.

The record reflects that you updated your NYSOH account within the renewal time frame, and selected a QHP for enrollment, which took effect on January 1, 2016.

You testified that you would like to be reimbursed for the premiums you paid for January, February, and March 2016 because you were unable to use your coverage for those months due to problems with your QHP. However, NYSOH's Appeal 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 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 and (5) a denial of a for a special enrollment period.

The issue of whether you should have had to pay your January, February, and March 2016 premiums to be reinstated in your QHP is not an issue over which NYSOH has jurisdiction, as it is an issue involving your contractual relationship with your QHP.

Therefore, it can only be concluded that NYSOH properly began your enrollment in a QHP on January 1, 2016, based on your completed renewal application.

The second issue under review is whether NYSOH properly determined that the application of your APTC to your monthly QHP premium began on April 1, 2016.

You testified that you did not recall the presence of an option on the online NYSOH application to choose how much, if any, of your APTC you wanted to apply to your premium. You testified that you thought you had done what was necessary to apply the entire amount of APTC for which you were determined eligible to your monthly QHP premium. However, the record reflects that NYSOH issued an enrollment confirmation notice on December 20, 2015 showing that you were enrolled in a QHP as of January 1, 2016, but that none of your APTC was being applied to your premium. You testified that you thought you remembered receiving that notice, but that you did not remember seeing the section regarding how much of your APTC was being applied.

The record reflects that on March 11, 2016, you updated your QHP enrollment. On March 12, 2016, NYSOH issued a new enrollment confirmation notice showing that you were enrolled in your QHP as of January 1, 2016, and that your APTC would be applied to your premium as of April 1, 2016.

Since there is nothing in the record to indicate that NYSOH erred in not applying your APTC to your premium until April 1, 2016, after you updated your enrollment, the March 12, 2016 enrollment confirmation notice is correct and must be AFFIRMED.

However, you testified that you paid your full premium for the months of January, February, and March 2016. People who use APTC must file a federal tax return to reconcile their expected income with their actual income. People who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes. When you file your 2016 federal income tax return, the amount of APTC you received will be reconciled, and if you did not receive the proper amount, it will be reflected in your federal income tax refund or bill.

Decision

The March 12, 2016 notice of enrollment confirmation is AFFIRMED.

NYSOH does not have the authority to review issues related to your reinstatement in your QHP and the premiums associated with this reinstatement.

Effective Date of this Decision: October 14, 2016

How this Decision Affects Your Eligibility

Your enrollment in your QHP began on January 1, 2016.

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 application of your APTC to your monthly premium began on April 1, 2016.

NYSOH does not have the authority to review the issue of premium payments you made to your QHP for the months of January, February, and March 2016.

If you were entitled to APTC that you did not receive in 2016, it will be reconciled when you file your 2016 federal income tax return.

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
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- By fax: 1-855-900-5557

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Summary

The March 12, 2016 notice of enrollment confirmation is AFFIRMED.

NYSOH does not have the authority to review issues related to your reinstatement in your QHP and the premiums associated with this reinstatement.

Your enrollment in your QHP began on January 1, 2016.

The application of your APTC to your monthly premium began on April 1, 2016.

NYSOH does not have the authority to review the issue of premium payments you made to your QHP for the months of January, February, and March 2016.

If you were entitled to APTC that you did not receive in 2016, it will be reconciled when you file your 2016 federal income tax return.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

