



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

Notice of Decision

Decision Date: October 17, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008122

[REDACTED]

Dear [REDACTED]

On September 14, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 22, 2016 eligibility determination.

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

Decision Date: October 17, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008122



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, your spouse, and your son were eligible to enroll in the Essential Plan, effective May 1, 2016?

Procedural History

On October 22, 2015, NY State of Health (NYSOH) issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated, based on information from federal and state sources, that you, your spouse, and your two sons were eligible for advance payments of the premium tax credit (APTC) in the amount of \$759.78 per month, and eligible for cost-sharing reductions (CSR), effective January 1, 2016. The notice also stated that you, your spouse, and your two sons were re-enrolled into your current qualified health plan (QHP), effective January 1, 2016. Lastly, on pages five and six of the notice, it stated that, if any of the information in the notice or in your account needed to be updated, you should log into your NYSOH account to make changes between November 16, 2015 and December 15, 2015.

On November 13, 2015, you updated your NYSOH account.

On November 14, 2015, NYSOH issued a notice of eligibility determination stating that you, your spouse, and your two sons were eligible to receive APTC of up to \$703.00 per month, and eligible for CSR, effective December 1, 2015.

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That same day, NYSOH issued a notice of enrollment confirmation confirming that you, your spouse, and your two sons were enrolled in a QHP effective January 1, 2015, and that your \$703.00 APTC would be applied to your monthly premium effective December 1, 2015.

Also on November 14, 2015, NYSOH issued a second renewal notice stating that 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 your family 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.

No further updates were made to your account by December 15, 2015.

On December 22, 2015 NYSOH issued an eligibility determination notice stating that you, your spouse, and your two sons were newly eligible to purchase a QHP at full cost through NYSOH, effective January 1, 2016. The notice also stated that your family was not eligible to for Medicaid, Child Health Plus, the Essential Plan, or to receive tax credits. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame.

Also on December 22, 2015, NYSOH issued a notice of enrollment confirmation, confirming your, your spouse's, and your two sons' enrollment in a QHP at full cost, effective January 1, 2016.

On March 21, 2016, you updated your NYSOH account. That day, NYSOH prepared a preliminary eligibility determination stating that you, your spouse, and your younger son were eligible to enroll in the Essential Plan, effective May 1, 2016. (Your older son was no longer included on your account.)

That same day, you spoke to NYSOH's Account Review Unit and appealed the preliminary eligibility determination insofar as it began your financial assistance eligibility and enrollment in the Essential Plan on May 1, 2016 and not January 1, 2016.

On March 22, 2016, NYSOH issued a notice of eligibility redetermination stating that you, your spouse, and your younger son were eligible to enroll in the Essential Plan with a \$20.00 per month premium, effective May 1, 2016.

Also on March 22, 2016, NYSOH issued a letter confirming your, your spouse's, and your son's enrollment in an Essential Plan, effective May 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 receive electronic alerts from NYSOH regarding notices in your account.
- 2) You testified that you believed you were to have received notices from NYSOH by regular mail.
- 3) You confirmed the email address that NYSOH has on record for you, but testified that you do not check it regularly.
- 4) You testified that you did not receive the October 22, 2015 renewal notice.
- 5) You testified that you updated your application on November 13, 2015 because you knew that you needed to renew your coverage for 2016, not because you received a notice advising you to update your account.
- 6) You testified that, when you updated your account on November 13, 2015, you were intending to renew your application for coverage for 2016.
- 7) You testified that you did not receive the November 14, 2015 renewal notice.
- 8) You testified that you were not aware that there was a problem with your family's coverage until the end of January 2016, when you were asked by your QHP to pay a higher premium than you expected to pay.
- 9) You testified that you contacted your QHP and were told that your family was no longer receiving a tax credit toward your monthly premium.
- 10) You testified that you contacted NYSOH and were told that you updated your account too early, and that was why you lost your tax credit.

- 11) You testified that you made the following payments to your QHP for 2016 coverage: a payment for \$979.00 in December or January; a payment of \$511.00 on January 18, 2016; a payment of \$511.00 on February 23, 2016; and a payment of \$1,214.00 on April 19, 2016.
- 12) You testified that you believe your family did use your QHP coverage during the months of January, February, March, and April 2016.
- 13) The record reflects that you updated your NYSOH account again on March 21, 2016. On that day you removed one of your sons from your NYSOH application.
- 14) You testified that you are seeking either to have tax credits applied for the months of January, February, March, and April, or, alternatively, for your family's Essential Plan coverage to begin as of January 1, 2016.

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 projected eligibility provided in the annual renewal notice (45 CFR § 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.

Open Enrollment Period

NY State of Health (NYSOH) must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR § 155.410(a)(1)).

For the benefit year beginning on January 1, 2016, the annual open enrollment period began on November 1, 2015, and extended through January 31, 2016 (45 CFR § 155.410(e)(2)).

Electronic Notices

If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in QHP's (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential 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); see also 42 CFR § 600.320). 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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your family's enrollment in the Essential Plan began as of May 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

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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 22, 2015, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, you, your spouse, and your two sons were eligible to receive APTC, and that, as of January 1, 2016, you, your spouse, and your two sons would be re-enrolled into the same QHP in which you were enrolled in 2015. It is noted that this notice informed you that, if any of the information in the notice was incorrect, or if anything in your family's circumstances had changed, you should update your NYSOH account between November 16, 2015 and December 15, 2015. However, it is also noted that this information appeared on pages five and six of the notice.

You testified that you did not receive this notice, and that you also did not receive the November 14, 2015 renewal notice. You testified that you updated your account on November 13, 2015 because you knew that it was around the time of year when you needed to renew your eligibility. You further testified that it was your intent to renew your coverage for 2016 when you updated your account on November 13, 2015.

The record reflects that you are enrolled to receive electronic alerts from NYSOH whenever a notice is issued in your account. You testified that you believe you receive notices in the mail from NYSOH, and that you do not regularly check the email account that is on file with NYSOH. Furthermore, there is also no evidence in your account documenting that any email alert was sent to you regarding the renewal notice. Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account.

Additionally, when you updated your account on November 13, 2015, the open enrollment period for 2016 had already begun. Therefore, any information you entered on that day would still have been applicable for the upcoming year.

You updated your account on March 21, 2016 to reflect a change in your household size and income, and you, your spouse, and son were found eligible for the Essential Plan. The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. 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. In this case, you selected a plan on March 21, 2016, therefore, it properly went into effect on May 1, 2016. Therefore, the March 22, 2016 eligibility determination notice is AFFIRMED.

However, according to your testimony, you first tried to update your account for the 2016 coverage year on November 13, 2015, and therefore this information is

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what should have been used to determine your family's eligibility for financial assistance beginning January 1, 2016.

Therefore, your case is RETURNED to NYSOH to redetermine your family's eligibility for financial assistance for the months of January, February, March, and April 2016 ONLY. NYSOH is directed to determine your eligibility for financial assistance as of January 1, 2016 based on a family of five with an expected annual income of \$63,000.00 residing in Suffolk County.

NYSOH is directed to issue an eligibility determination regarding your household's eligibility for financial assistance for the months of January, February, March, and April of 2016, and to ensure that any tax credits your family may be eligible for are properly applied to any premiums you paid for those four months.

Decision

The March 22, 2016 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to determine your household's eligibility for financial assistance for the months of January, February, March, and April of 2016 ONLY, based on a household of five with an expected annual income of \$63,000.00 residing in Suffolk County.

NYSOH is directed to issue a notice of eligibility determination regarding your family's eligibility for assistance for the period of January through April 2016 ONLY.

Effective Date of this Decision: October 17, 2016

How this Decision Affects Your Eligibility

Your family's enrollment in your Essential Plan coverage began on May 1, 2016.

Your case is being sent back to NYSOH to determine your family's eligibility for financial assistance for the months of January, February, March, and April 2016.

Your family's current eligibility remains unchanged and unaffected by this decision.

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

The March 22, 2016 eligibility determination notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to determine your household's eligibility for financial assistance for the months of January, February, March, and April of 2016 **ONLY**, based on a household of five with an expected annual income of \$63,000.00 residing in Suffolk County,

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NYSOH is directed to issue a notice of eligibility determination regarding your family's eligibility for assistance for the period of January through April 2016 ONLY.

Your family's enrollment in your Essential Plan coverage began on May 1, 2016.

Your case is being sent back to NYSOH to determine your family's eligibility for financial assistance for the months of January, February, March, and April 2016.

Your family's current eligibility remains unchanged and unaffected by this decision.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

