



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

## DENIAL OF REQUEST TO VACATE DISMISSAL

Notice Date: July 5, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008258

[REDACTED]

Dear [REDACTED],

On March 24, 2016, you appealed a notice of eligibility determination issued by NY State of Health (NYSOH) on February 8, 2015.

On March 30, 2016, NYSOH issued a Notice of Invalid Appeal Request, stating that your appeal was invalid because, "you appealed an issue that is outside of the scope of appealable determinations." You were advised that if you wished to amend your appeal, you had 60 days from February 9, 2016 to file any additional information.

On April 11, 2016, NYSOH received your letter dated April 6, 2016, and it may be construed as a request to reconsider the finding that your appeal was invalid.

On May 6, 2016, NYSOH issued a second Notice of Invalid Appeal Request.

On June 7, 2016, NYSOH issued a Notice of Dismissal, due to a purported failure to amend your appeal request.

It is noted that sixty days from February 9, 2016 fell on Saturday, April 9, 2016. Because the deadline fell on a Saturday, your response would be due on the following business day, or April 11, 2016. That is the day your April 6, 2016 response was received, so even if the deadline was appropriate, your response was still timely, and the June 7, 2016 incorrectly stated that you had not

appropriately responded. Therefore, your amended appeal will again be reviewed for validity.

It is noted that, in general, an individual must request a hearing within 60 days of the date of the notice of eligibility determination issued by NYSOH to which they object (45 CFR § 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

Therefore, your appeal of the February 8, 2015 notice of eligibility determination was untimely, and will not be considered.

However, on a substantive basis, even if all the statements you made in your appeal letters are true, there would still be no basis for NYSOH to grant you a waiver of the requirement to have health insurance, nor is there any authority for NYSOH to rescind any penalties assessed against you by the Internal Revenue Service.

Your April 6, 2016 letter and prior letters stated that you felt that NYSOH had given you incorrect information when you enrolled in coverage in February 2015. When you gave your estimated income, you told the NYSOH representative that it was only an estimate, because you might earn more money from working overtime. You were told, "Don't worry about it" and "It is all right." You allege that you were never told that you would be penalized if you went over your estimated earnings.

A review of our records indicates that the February 8, 2015 notice of eligibility determination and the February 8, 2015 confirmation of your enrollment clearly stated that changes in earnings would affect your eligibility. Both notices advised you that you were required to report any changed in income if you were receiving financial assistance, and that if you did not report any changes and such changes affected your eligibility, you might have to pay back some or all of the subsidies you received.

Both notices also went on to state, "Your tax subsidy is based on your projected annual income. The IRS will reconcile your advance premium tax credit (APTC) with the income you report on your federal income tax return. If your income is higher than what you told us on your application, you may have to pay more taxes."

The notices went on to advise you that, "If your income is lower than what you told us on your application, you may receive a tax refund. If, at any time, you want to lower the risk of owing taxes related to your coverage, you may lower the amount of Advanced Premium Tax Credit and choose to pay more for your monthly premium now. To opt for a higher monthly premium, contact us or log into your account to lower the amount of your Advance Premium Tax Credit."

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: 1-877-622-4886).

You received advance payments of the premiums tax credit to which it was later determined by the IRS you were not entitled, and regardless of fault, you would still need to repay the credit. As for any additional penalties that may or may not have been assessed against you by the Internal Revenue Service, the Appeals Unit of NYSOH has no authority to rescind penalties assessed by the federal government.

Therefore, your appeal to NYSOH was correctly found to be invalid, based both on timeliness and on substantive grounds; the appropriate place to lodge your complaint is to the federal government.

Therefore, your request to vacate your dismissal is denied.

### **How does this Affect My Eligibility?**

The Appeals Unit of NY State of Health will not vacate the dismissal of your appeal.

### **Appeal Identification Number**

When communicating with the Marketplace about this appeal, please refer to the Appeal Identification Number and the Account ID Number at the top of this notice.

### **How to Contact the Marketplace**

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

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: 1-877-622-4886).

## **Legal Authority**

We are sending you this notice in accordance with 45 Code of Federal Regulations § 155.530.

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



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