



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

## Notice of Decision

Decision Date: November 3, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008611



Dear [REDACTED]

On October 11, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 20, 2016 eligibility determination and March 24, 2016 denial of a special enrollment period.

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 NY State of Health 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.

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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: November 3, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008611



## Issues

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

Did New York State of Health (NYSOH) properly determine that you were eligible to receive up to \$172.00 per month in advance payments of the premium tax credit (APTC), effective March 1, 2016?

Did NYSOH properly determined that your enrollment in a qualified health plan, as well as your eligibility for APTC, was effective March 1, 2016?

Did NYSOH properly determine, on March 24, 2016, that you were not eligible to enroll in a plan outside of the open enrollment period?

## Procedural History

According to your NYSOH account, you were enrolled in a silver-level qualified health plan (QHP), effective March 1, 2015, with a premium of \$209.37 after the monthly APTC of \$191.00 was applied.

On October 24, 2015, NYSOH issued a renewal notice for the upcoming calendar year, which informed you that a determination of your eligibility for financial assistance could not be redetermined based on federal and state data sources. The notice instructed you to update the information in your NYSOH by December 15, 2015.

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

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On December 21, 2015, NYSOH issued an eligibility redetermination notice that stated you were newly eligible to purchase a QHP at full cost through NYSOH, effective January 1, 2016. The notice informed you that you do not qualify for Medicaid, Child Health Plus and the Essential Plan, or to receive APTC to help pay for the cost of your insurance because you did not respond to the renewal notice and did not complete your renewal within the required timeframe. As a result, you no longer qualified to receive financial assistance to help pay for your health coverage.

On December 23, 2015, NYSOH issued an enrollment notice confirming you were enrolled in a silver-level QHP at full cost, effective January 1, 2016, with a monthly premium of \$440.05.

On January 7, 2016, NYSOH received your updated application for health insurance.

On January 8, 2016, NYSOH issued an eligibility redetermination notice, based on the January 7, 2016 application, stating that you were eligible to received APTC of \$172.00 per month, effective February 1, 2016.

Also on January 8, 2016, NYSOH issued an enrollment confirmation notice, based on the January 7, 2016 health plan selection, stating that you were enrolled in a bronze-level QHP with a premium of \$196.71 per month, after the monthly APTC of \$172.00 was applied and you had a \$3,500.00 deductible, effective February 1, 2016.

Also on January 8, 2016, NYSOH issued a disenrollment notice acknowledging your request to cancel the full cost QHP, which request was processed and, according to the notice, meant that your coverage would end effective January 31, 2016.

Also on January 8, 2016, NYSOH issued a cancellation notice confirming that your request to cancel the bronze-level QHP you had been enrolled in for February 1, 2016 was processed and you would not have coverage as of that date.

On January 19, 2016, NYSOH received your updated enrollment selection for a silver-level QHP.

On January 20, 2016, NYSOH issued an enrollment confirmation notice, based on the January 19, 2016 selection, stating that you were enrolled in a Healthfirst silver-level QHP with a premium of \$268.05 per month, after the APTC of \$172.00 was applied, and had a \$2,500.00 deductible, effective March 1, 2016. That notice also stated you must pay your monthly premium to start and keep your coverage.

On March 23, 2016, you contacted NYSOH Account Review Unit and requested a special enrollment period in order to change health plans. That same day, the NYSOH Account Review Unit began to research your request.

On March 24, 2016, the NYSOH Account Review Unit denied your request for a special enrollment period.

On April 4, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the January 20, 2016 eligibility determination notice as it related to your amount of financial assistance. You also requested an appeal of the March 24, 2016 denial of your request for a special enrollment period.

On April 7, 2016, NYSOH issued a cancellation notice, stating that your insurance with your silver-level QHP was cancelled effective March 1, 2016, because a premium payment had not been received by the QHP. That notice also stated that you must pay your premium responsibility within the required timeframe in order for coverage to begin.

On October 11, 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 supports the following findings of fact:

- 1) You testified that you are seeking to enroll in a different QHP outside the open enrollment period and to have your APTC redetermined. You also testified that you are also looking to avoid an IRS tax penalty for not having health insurance coverage for the requisite number of months in 2016.
- 2) According to your NYSOH account, you submitted your initial application for 2016 health insurance coverage on January 7, 2016. As a result, your effective date of coverage was February 1, 2016.
- 3) The application that was submitted on January 7, 2016 listed annual household income of \$31,000.00 in earnings from your employment. You testified that this amount was correct.
- 4) Your application states that you will be taking a \$600.00 student loan interest deduction on your 2016 tax return.
- 5) According to your NYSOH account, you plan on filing your 2016 taxes with a tax filing status of single and will claim no dependents on that tax return.

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- 6) Your application states that you live in Nassau County, New York.
- 7) You testified that NYSOH placed you into the bronze-level QHP on January 7, 2016 by mistake and that you called NYSOH at a later date to be put in the “same health plan” you had in 2015. According to your NYSOH account, you were enrolled in a Healthfirst silver-level QHP on January 19, 2016, with an enrollment start date of March 1, 2016.
- 8) You testified that the terms of your Healthfirst silver-level QHP had changed in 2016 and, therefore, it wasn’t the “same plan” you had in 2015. You further testified that the monthly premium had increased and there was a \$2,500.00 deductible; whereas you had a lesser premium and no deductible in 2015.
- 9) You testified that the silver-level QHP you enrolled in on January 19, 2016, although with same insurance provider, was unaffordable due to the increase in premiums and deductibles.
- 10) You testified that you did not pay any premium for your health insurance coverage to start because the QHP you had been enrolled in was not the same as the coverage you had in 2015.
- 11) You testified that a representative from NYSOH advised you that you did not need to make your first installment on your health plan until the end of March 2016.
- 12) According to the telephone recording of January 19, 2016, the representative from NYSOH informed you that you would not be covered until March 1, 2016, and that you must call the Account Review Unit if you want to back date your coverage to February 1, 2016. No discussion about when to make your premium payments was made in that telephone call.
- 13) Also during the January 19, 2016 telephone call, you asked the NYSOH representative why your insurance premium payments were higher. The NYSOH representative advised you to call your health plan, to which you responded they will make you call NYSOH.
- 14) According to your NYSOH account, you contacted NYSOH on March 23, 2016 in order to change your health plan outside of the open enrollment period. On March 24, 2016, NYSOH Account Review Unit denied your request.
- 15) According to your NYSOH account, you were terminated from your health plan for non-payment of premium, effective March 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 information and 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 §

### Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (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)).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

*minus*

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2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2016 is set by federal law at 2.03% to 9.66% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc. 2014-37, IRS Rev. Proc. 2014-62).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2015 FPL, which is \$ 11,770.00 for a one-person household (80 Federal Register 3236, 3237).

For annual household income in the range of at least 250% but less than 300% of the 2015 FPL, the expected contribution is between 8.18% and 9.66% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37, IRS Rev. Proc. 2014-62).

#### Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing, or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (g)).

NYSOH has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

#### De Novo Review

NYSOH Appeals Unit must review each appeal de novo and "consider all relevant facts and evidence adduced during the appeals process" (45 CFR § 155.535(f)). "De novo review means a review of an appeal without deference to prior decisions in the case" (45 CFR § 155.500).



## Enrollment in a Qualified Health Plan

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)).

## Special Enrollment Periods

After each open enrollment period ends, NYSOH provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP, and an enrollee may change their enrollment to another plan. This is generally permitted when one of the following triggering events occur:

- (1) The qualified individual or his or her dependent involuntarily loses certain health insurance coverage:
  - (a) Health insurance considered to be minimum essential coverage;
  - (b) Enrolled in any non-calendar year health insurance policy, even if they have the option to renew the expiring non-calendar year individual health insurance policy; or
  - (c) Pregnancy-related coverage; or
  - (d) Medically needy coverage.
- (2) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care; or
- (3) The qualified individual or his or her dependent, who was not previously a citizen, national, or lawfully present individual gains such status; or
- (4) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange; or a non-Exchange entity providing enrollment assistance or conducting enrollment activities; or

- (5) The enrollee or dependent adequately demonstrates to the Exchange that the QHP in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee; or
- (6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or has a change in eligibility for cost-sharing reductions; or
- (7) The qualified individual, enrollee, or their dependent, gains access to new QHPs as a result of a permanent move; or
- (8) The qualified individual is an Indian, as defined by section 4 of the Indian Health Care Improvement Act, and may enroll in a QHP or change from one QHP to another one time per month; or
- (9) The qualified individual or enrollee, or their dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide;

(45 CFR § 155.420(d)).

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to select a QHP (45 CFR § 155.420(c)(1)).

However, a loss of health insurance coverage such as that referenced above does not include,

“voluntary termination of coverage or other loss due to—

(1) Failure to pay premiums on a timely basis, including COBRA premiums prior to expiration of COBRA coverage, or

(2) Situations allowing for a rescission as specified in 45 CFR [§] 147.128”

(45 CFR § 155.420(e)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your enrollment in a qualified health plan as well as your eligibility for advance premium tax credits was effective March 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 be redetermined based on federal and state data sources. You were asked to update the information in your account by December 15, 2015 or the financial help you were receiving might end.

Because there was no timely response to this notice with updated income information, your eligibility for financial assistance and your enrollment in a QHP for 2015 was terminated effective December 31, 2015 and NYSOH re-enrolled you in a QHP at full cost, effective January 1, 2016.

You testified that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable. Therefore, the renewal notice is deemed to have been sent and the record reflects that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated in order to ensure your eligibility for financial assistance would continue in 2016.

The record reflects that on January 7, 2016 you updated the information in your NYSOH account and submitted a request to enroll in a QHP. When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month, which in your case was February 1, 2016.

However, you credibly testified that NYSOH placed you into a bronze-level QHP on January 7, 2016 by mistake and you called NYSOH on January 19, 2016 to update your account and enroll in a different plan. This activity occurred during the open enrollment period during which plan changes are permitted.

When an individual changes information in their application after the 15th of any month, NYSOH will make the redetermination that results from the change effective the first day of the second following month. Additionally, the date on which a QHP can take effect depends on the day a person selects the plan for enrollment. You selected a Healthfirst silver-level QHP on January 19, 2016. A plan that is selected after the 15th day of a month goes into effect on the first day of the second following month. In your case that would be March 1, 2016.

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Since you updated your NYSOH account and enrolled in a Healthfirst silver-level QHP on January 19, 2016, NYSOH's January 20, 2016 eligibility determination notice and enrollment confirmation notice are AFFIRMED because they properly began your eligibility for and enrollment in your qualified health plan, as well as applying your APTC, on March 1, 2016.

The second issue is whether NYSOH properly determined that you were eligible for an APTC of up to \$172.00 per month.

The application that was submitted on January 7, 2016 listed an annual household income of \$30,400.00; which includes \$31,000.00 in income earned from employment minus a \$600.00 student loan interest deduction. The eligibility determination relied upon that information.

You are in a one-person household for purposes of this analysis. This is because you expect to file your 2016 income taxes as single and will claim no dependents on that tax return.

You reside in Nassau County, where the second lowest cost silver plan available for an individual through NYSOH in 2016 costs \$385.22 per month.

An annual income of \$30,400.00 is 258.28% of the 2015 FPL for a one-person household. At 258.28% of the FPL, the expected contribution to the cost of the health insurance premium is 8.43% of income, or \$213.56 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through NYSOH for an individual in your county (\$385.22 per month) minus your expected contribution (\$213.56 per month), which equals \$171.66 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$172.00 per month in APTC. Notably, this amount was less than the APTC you were determined eligible for in 2015 at \$191.00 per month.

Since the January 20, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$172.00 per month in APTC, effective March 1, 2016, it is correct and is AFFIRMED.

The third issue under review is whether NYSOH properly denied you a special enrollment period.

On March 23, 2016, you spoke with NYSOH's Account Review Unit and requested a special enrollment to select a new QHP outside of the open enrollment period. The record does not contain a notice of eligibility determination or redetermination on the issue of special enrollment period. However, according to your NYSOH account, you called on March 23, 2016 in

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order to change health plans and, upon review by the Account Review Unit, you were denied a special enrollment period on March 24, 2016.

Here, the lack of a notice of eligibility determination on the issue of a special enrollment period does not prevent the Appeals Unit from reaching the merits of the case or constitute material error. Under 45 CFR § 155.505(b), you are as entitled to appeal NYSOH failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. Your NYSOH account, which acknowledges your request for a special enrollment period and the denial of the special enrollment period by the Account Review Unit, along with your testimony, permits an inference that NYSOH did deny your special enrollment request.

Since the Appeals Unit review of NYSOH determinations is performed on a de novo basis, no deference would have been granted to the notice of eligibility determination had it been issued and review is appropriate.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period in order to enroll in, or change to another health plan offered in NYSOH. In order to qualify for a special enrollment period, a person must experience a triggering event.

According to your NYSOH account, you contacted NYSOH on March 23, 2016 in an attempt to change your health plan outside the open enrollment period and were denied a special enrollment period for coverage to resume in 2016. You appealed that denial on April 4, 2016.

The record reflects that as of April 4, 2016, you failed to pay your first installment for your health insurance premium for coverage to begin in March 2016 and, as a result, your coverage was terminated effective March 1, 2016, as evidenced by the cancellation notice dated April 7, 2016.

You testified that you were advised by NYSOH that you didn't need to make your first installment on your health plan until the end of March, 2016. However, the telephone recording of January 19, 2016, conflicts with this testimony. During that call, the NYSOH representative notified you that you would not be covered until March 1, 2016, and that you must call the Account Review Unit if you want to backdate your coverage to February 1, 2016. No discussion about when to make your premium payments was made in that telephone call. Even if this was the case, NYSOH didn't issue a cancellation notice until April 7, 2016, which indicates that you were in fact, given until at least March 31, 2016 to make your initial payment, but did not.

You further testified that believed your coverage was to start April 1, 2016, which is contrary not only to the January 20, 2016 enrollment confirmation notice which

stated your coverage was effective March 1, 2016 and that you need to make your initial premium payment for coverage to start, but also to your own statements that you didn't make the payment because the coverage in the Healthfirst silver-level QHP differed from the coverage terms in 2015 in that the premium and deductible amounts had increased and were unaffordable.

Generally, the loss of health insurance coverage is considered a triggering event. However, in your case, your enrollment was terminated effective March 1, 2016 because you did not pay your premium to your QHP on time. NYSOH considers the failure to pay premiums a voluntary action that resulted in your coverage being terminated. Therefore, you would not be entitled to a special enrollment period in which to enroll in new coverage on this basis.

You contended at the hearing that your 2016 QHP enrollment with Healthfirst, while the same insurer, was not the "same plan" you had last year and that you requested the "same plan" on both January 7, 2016 and January 19, 2016.

Although the telephone recordings of January 7, 2016 and January 19, 2016, confirms your testimony that you requested the "same plan," you also asked the NYSOH representative why your insurance premium payments were higher. The NYSOH representative advised you to call your health plan to which you responded they will make you call NYSOH. The terms of health insurance coverage are contractual in nature and all issues relating to such terms are outside the Appeals Unit's authority to review and rightly require review and/or discussion between the insured and insurer. The record reflects that the NYSOH representative enrolled you in a Healthfirst silver-level QHP that was being offered in 2016 - - a similar QHP with the same name as the QHP you had in 2015, but with higher monthly premium payments and a deductible.

While the record indicates that your failure to make a premium payment to your QHP may have been due to you not being satisfied with your health coverage or because you felt it was unaffordable and not "the same plan" as you had in 2015 as you had requested, it does not indicate that your loss in health coverage or inability to pick a new health plan was the result of the "error, misrepresentation, or inaction of an officer, employee, or agent of the NYSOH; or a non-Exchange entity providing enrollment assistance." Therefore, you would not qualify for a special enrollment period on this basis.

Therefore, the credible evidence of record indicates that, since the open enrollment period closed on January 31, 2016, no other triggering events have occurred that would qualify you for a special enrollment period.

Therefore, NYSOH's March 24, 2016 denial of a special enrollment period to select a health plan outside of the open enrollment period for 2016 is **AFFIRMED**.

You testified that part of the reason for not paying the monthly premium for coverage to begin was that it was unaffordable. If you wish to be considered for an affordability hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2016, you can check the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for direction.

Lastly, the record indicates that NYSOH's denial of a special enrollment period resulted in you being without insurance coverage for part of the 2016 coverage year. During the hearing, you expressed concern about receiving a tax penalty as a result of being without coverage this year.

Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. You might qualify for a health coverage exemption in 2016 if you didn't have health coverage while you were waiting for an appeal decision about coverage eligibility or savings ***and*** your appeal was eventually successful (emphasis added).

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

You will find the information you need to claim the exemption due to an appeal decision at <https://www.healthcare.gov/exemptions-tool/#/results/2016/details/eligible-based-on-appeal>. You can also call 1-800-318-2596.

**Important:** If you do not get a response from HHS to your exemption application in time to file your tax return, write the word "pending" in column "c" and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

## **Decision**

The January 20, 2016 eligibility determination notice is AFFIRMED.

The March 24, 2016 denial of a special enrollment period is AFFIRMED.

**Effective Date of this Decision:** November 3, 2016

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

You remain eligible for up to \$172.00 per month in APTC, but were cancelled due to nonpayment of premium.

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).

You do not qualify for a special enrollment period at this time.

## **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 January 20, 2016 eligibility determination notice is **AFFIRMED**.

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The March 24, 2016 denial of a special enrollment period is AFFIRMED.

You remain eligible for up to \$172.00 per month in APTC, but were cancelled due to nonpayment of premium.

You do not qualify for a special enrollment period at this time.

If you wish to be considered for an affordability hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2016, you can check the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for direction.

## **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545.

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

