



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

## Notice of Decision

Decision Date: December 1, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008778

[REDACTED]

Dear [REDACTED],

On October 17, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 9, 2015 eligibility determination notice and February 11, 2016 enrollment 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.

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## Decision

Decision Date: December 1, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008778

[REDACTED]

## 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 were eligible to receive advance payments of the premium tax credit and cost-sharing reductions effective January 1, 2016?

Did NYSOH properly determine that your enrollment in an Essential Plan was effective March 1, 2016?

## Procedural History

On November 22, 2015, NYSOH issued an eligibility determination notice, stating that you were eligible to enroll in the Essential Plan for a limited time, pending receipt of income documents before February 14, 2016. This eligibility determination was effective January 1, 2016. You were directed to submit income documentation.

On December 3, 2015, NYSOH received four earning statements issued to you by your employer, [REDACTED], between October 30, 2015 and November 20, 2015.

On December 8, 2015, NYSOH redetermined your eligibility for health insurance; you were not involved in this redetermination.

On December 9, 2015, NYSOH issued a notice of eligibility redetermination, stating that you were newly eligible to receive advance payments of the premium

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tax credit (APTC) of up to \$200.00 per month and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR). This eligibility determination was effective January 1, 2016. You were directed to select a new plan.

Also on December 9, 2015, NYSOH issued a cancellation notice stating that your enrollment in the Essential Plan would end effective January 1, 2016 because you were no longer eligible to remain enroll in your current health insurance plan.

On February 5, 2016, NYSOH issued an enrollment notice confirming your selection of a qualified health plan (QHP) as of February 4, 2016, at a monthly cost of \$100.28, after applying the maximum APTC of \$200.00. The notice stated that your coverage would begin effective February 1, 2016.

On February 10, 2016, NYSOH received an updated application for health insurance.

On February 11, 2016, NYSOH issued an eligibility determination notice based on the information contained in the February 10, 2016 application. The notice stated that you were eligible to enroll in the Essential Plan for a limited time, effective March 1, 2016, pending receipt of income documents before May 10, 2016.

Also on February 11, 2016, NYSOH issued an enrollment notice confirming your selection of an Essential Plan as of February 10, 2016. The notice stated that your enrollment would begin effective March 1, 2016.

Finally, on February 11, 2016, NYSOH issued a disenrollment notice stating that your QHP coverage would end effective February 29, 2016.

On February 18, 2016, NYSOH received a copy of a W-2 reflecting your gross income received from your employer, [REDACTED].

On March 2, 2016, NYSOH received (1) three additional earnings statements issued to you by your employer, [REDACTED], between November 25, 2015 and December 18, 2015, (2) an Unemployment Insurance Monetary Benefit Determination letter, dated as of January 4, 2016 and (3) an unsigned copy of your 2015 Individual Income Tax Return (Form 1040A).

On April 8, 2016, you spoke to NYSOH's Account Review Unit and appealed (1) that you were found eligible to enroll in a QHP effective January 1, 2016, which caused you to be disenrolled from your Essential Plan, and (2) the start date of your enrollment in the Essential Plan insofar as it began March 1, 2016, rather than January 1, 2016.

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) You submitted an application to NYSOH for financial assistance on November 16, 2015 in which you attested to a yearly expected income of \$22,632.00, which was comprised of \$20,319.00 in anticipated income from your employer, as well as nine weeks of unemployment benefits in the amount of \$257.00 per week.
- 2) In a notice issued on November 22, 2015, you were found eligible to enroll in the Essential Plan for a limited time, effective January 1, 2016. You were instructed to submit income documentation, but were not advised of the appropriate documentation to show income for people with seasonal employment.
- 3) On December 3, 2015, you provided NYSOH with four earning statements reflecting that you received (1) \$452.25 on October 30, 2015, (2) \$540.00 on November 6, 2015, (3) \$540.00 on November 13, 2015 and (4) \$540.00 on November 20, 2015.
- 4) On December 8, 2015, you eligibility was redetermined, in part based on the income documents provided by you on December 3, 2015. Your eligibility was determined using an annual household income of \$29,109.25, which was based on \$26,939.25 income from your employer, as well as seven weeks of unemployment benefits in the amount of \$310.00 per week.
- 5) As a result of the information contained in the December 8, 2015 application, you were found eligible for APTC and CSR, and ineligible for the Essential Plan. This eligibility determination was effective January 1, 2016.
- 6) You were disenrolled from the Essential Plan, effective January 1, 2016.
- 7) You testified, and your application reflects, that you enrolled in a bronze-level QHP at a premium rate of \$100.28, after applying the maximum APTC of \$200.00.
- 8) You testified that you made one premium payment for the QHP coverage during the month of February 2016.

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9) You further revised your application on February 10, 2016, in which you attested to an annual household income of \$22,632.00. As a result of this application, you were again found eligible for the Essential Plan. This eligibility determination was effective March 1, 2016.

10) You testified that you wanted your enrollment in an Essential Plan to begin on January 1, 2016, rather than March 1, 2016; to recoup the premium you paid for your QHP coverage during the month of February 1, 2016; and to avoid any taxation issues with no having coverage during the month 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**

### 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 qualified health plans (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 first issue under review is whether NYSOH properly determined that you eligible to receive advance payments of the premium tax credits and cost-sharing reductions as of December 8, 2015.

The record reflects that as a result of information contained in your application as of November 16, 2015, you were found eligible for the Essential Plan for a limited time, pending the receipt of income documentation by February 14, 2016 to confirm your eligibility.

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Shortly thereafter, on December 3, 2015, NYSOH received four consecutive earning statements issued by your employer reflecting that you received a \$2,072.25 over a four week period between October 30, 2016 and November 20, 2016. These earning statements were used to calculate an estimated yearly income \$26,939.25 ( $\$2,072.25 / 4 \text{ weeks} \times 52 \text{ weeks}$ ). In addition to this new calculation, your income was further increased by \$2,170.00 ( $\$310.00 \times 7 \text{ weeks}$ ) in unemployment benefits anticipated to be received.

Based a new expected yearly income of \$29,109.00 ( $\$26,939.25 + \$2,170.00$ ), you eligibility was rerun by NYSOH on December 8, 2015. As a result of this revised application, you were found eligible for \$200.00 per month in APTC, eligible for CSR, but found ineligible for the Essential Plan, effective February 1, 2016.

Shortly thereafter, on February 18, 2016, you provided a W-2 reflecting that the income you received from your employer was \$20,318.50. You also provided on March 2, 2016 several additional income documents reflecting that your 2015 year to date income at year's end was also \$20,318.50. Finally, you provided a UI determination letter stating that you were awarded a benefit of \$257.00 per week.

You also testified during the hearing that your income as a roofer is variable, based on the weather and season, and that the revised calculation used to compute your income as \$26,939.25 was therefore erroneous.

It is found that you were not properly advised as to the documentation to show income for a person with seasonal employment, and that the December 9, 2015 notice of eligibility determination was based on an inflated estimated annual income.

Therefore, the December 9, 2015 eligibility determination notice must be **RESCINDED**.

The second issue under review is whether NYSOH properly determined that your enrollment in an Essential Plan was effective March 1, 2016, rather than January 1, 2016.

You updated your NYSOH application on February 10, 2016. As a result, you were found eligible for the Essential Plan as of February effective March 1, 2016. You enrolled in an Essential Plan that same day for coverage also beginning on March 1, 2016.

Since the record now reflects you were erroneously disenrolled from your Essential Plan effective January 1, 2016, based on the NYSOH recalculating your expected annual income as of December 8, 2015, we find there is sufficient

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evidence that your Essential Plan enrollment should have continued uninterrupted as of January 1, 2016.

Therefore, the February 11, 2016 enrollment notice is MODIFIED to state that your Essential Plan coverage was effective as of January 1, 2016.

Furthermore, your case is RETURNED to effectuate the changes to your eligibility noted above and, if applicable, to facility a reimbursement of premiums paid for QHP coverage during February 2016.

## **Decision**

The December 9, 2015 eligibility determination notice is RESCINDED.

The February 11, 2016 enrollment notice is MODIFIED to state that your Essential Plan coverage was effective as of January 1, 2016.

Your case is RETURNED to effectuate the changes to your eligibility noted above and, if applicable, to facility a reimbursement of premiums paid for QHP coverage during February 2016.

**Effective Date of this Decision:** December 1, 2016

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

You are no longer eligible for APTC and CSR during the month of February 2016.

The effective date of your Essential Plan is January 1, 2016.

## **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.

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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 December 9, 2015 eligibility determination notice is **RESCINDED**.

The February 11, 2016 enrollment notice is **MODIFIED** to state that your Essential Plan coverage was effective as of January 1, 2016.

Your case is **RETURNED** to effectuate the changes to your eligibility noted above and, if applicable, to facility a reimbursement of premiums paid for QHP coverage during February 2016.

You are no longer eligible for APTC and CSR during the month of February 2016.

The effective date of your Essential Plan is January 1, 2016.

### **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:**

