



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

## Notice of Decision

Decision Date: November 7, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008860

[REDACTED]

Dear [REDACTED]

On October 24, 2016, you and your daughter appeared by telephone at a hearing on your appeal of NY State of Health's March 29, 2016 eligibility determination 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: November 7, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008860



## 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 your eligibility for and enrollment in the Essential Plan began effective May 1, 2016?

## Procedural History

On November 7, 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.

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

On December 24, 2015, NYSOH issued a disenrollment notice stating that your enrollment in your silver-level QHP was terminated effective December 31, 2015 because you were no longer eligible to remain enrolled in your current health insurance.

Also on December 24, 2015, NYSOH issued a notice of enrollment confirmation confirming your enrollment in a silver-level QHP with a premium of \$555.39 per month, effective January 1, 2016.

On March 28, 2016, NYSOH received your updated application for health insurance.

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On March 29, 2016, NYSOH issued a notice of eligibility redetermination stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium. This eligibility was effective May 1, 2016

Also on March 29, 2016, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Essential Plan 1, effective May 1, 2016.

On April 12, 2016 you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it began your financial assistance eligibility on May 1, 2016 and not January 1, 2016.

On October 24, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit with the assistance of a Shanghainese Interpreter, ID Number [REDACTED]. Also during the hearing, your daughter, [REDACTED], provided testimony. 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) Your NYSOH account indicates that you receive notices from NYSOH by regular mail.
- 2) Your daughter testified that she assists you with matters relating to your NYSOH account.
- 3) Your daughter testified that you did not receive any notices from NYSOH telling you that you needed to update the information in your NYSOH account to ensure that your coverage would not be interrupted and that your financial assistance would continue.
- 4) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 5) Your daughter testified that neither of you were aware that you were previously receiving a subsidy for your premium.
- 6) Your daughter testified that she contacted your QHP to ask why your premium had gone up, and that they told her to contact NYSOH.
- 7) Your daughter testified that she did not know you needed to renew your application until April or so, when she called NYSOH to update the

information in your account and found out that you had not been receiving a tax credit toward your QHP premium.

- 8) Your daughter testified that your premium was paid in full for January, February, March, and April of 2016.
- 9) Your daughter testified that, when she called NYSOH to renew your application, she was informed that she could appeal the fact that you did not receive tax credits for January, February, March, and April of 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 § 155.330(f) are not pertinent here.

### Redetermination During a Benefit Year

When an eligibility redetermination results in a change in the amount of APTC for a part of the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made (or not made) on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond

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to the tax filer's total projected premium tax credit for the overall benefit year (45 CFR § 155.330(g)).

Any change resulting from redeterminations during a benefit year should be made effective the first day of the month following the date of the notice of redetermination, except that redeterminations resulting from changes made after a date specified by the state, which can be no earlier than the 15<sup>th</sup> of the month, may not be made effective until the first day of the month after the month following the date of the notice of redetermination. (45 CFR § 155.330(f)(1) and (2)). New York has specified that changes made after the 15<sup>th</sup> of a given month will take effect the month after the following month.

### End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

### 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 issue under review is whether NYSOH properly determined that your eligibility for financial assistance began on May 1, 2016, when your eligibility for the Essential Plan began.

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 November 7, 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 would 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.

Because there was no timely response to this notice, your eligibility for financial assistance was terminated effective December 31, 2015, and you were re-enrolled into your QHP at full cost (with no tax credit), effective January 1, 2016.

Your daughter testified that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account. The information in 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 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 enrollment in your health plan and eligibility for financial assistance would continue.

The record shows that on March 28, 2016, you updated the information in your NYSOH account and submitted a request to enroll in an Essential Plan.

When an individual changes information in their application after the 15<sup>th</sup> of any month, NYSOH will make the redetermination that results from the change effective the first day of the second following month. 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. A plan selected after the 15<sup>th</sup> of the month will go into effect on the first day of the second following month.

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You updated your NYSOH account and selected an Essential Plan for enrollment on March 28, 2016. Therefore, your eligibility for financial assistance in the form of your eligibility for the Essential Plan properly began on May 1, 2016, as did your enrollment in your Essential Plan.

Therefore, NYSOH's March 29, 2016 eligibility determination and enrollment confirmation notices are AFFIRMED because they properly began your eligibility for and enrollment in your Essential Plan on May 1, 2016.

Your daughter testified that you paid full premiums for your QHP coverage for January through April of 2016. The amount an individual receives in tax credits toward their QHP premium is reconciled when they file their federal income tax return. When you file your 2016 income tax return, if you should have been eligible for a tax credit for the months in which you paid your full QHP premiums, you may receive an income tax refund or owe less in taxes.

## **Decision**

The March 29, 2016 eligibility determination notice is AFFIRMED.

The March 29, 2016 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** November 7, 2016

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

This decision does not change your eligibility.

Your eligibility for and enrollment in your Essential Plan coverage properly began as of May 1, 2016.

When you file your 2016 income tax return, if you should have been eligible for a tax credit during the months when you paid your full QHP premium, you may receive an income tax refund or owe less in taxes.

## **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.

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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  
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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The March 29, 2016 eligibility determination notice is AFFIRMED.

The March 29, 2016 enrollment confirmation notice is AFFIRMED.

This decision does not change your eligibility.

Your eligibility for and enrollment in your Essential Plan coverage properly began as of May 1, 2016.

When you file your 2016 income tax return, if you should have been eligible for a tax credit during the months when you paid your full QHP premium, you may receive an income tax refund or owe less in taxes.

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## **Legal Authority**

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

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

