



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

Notice of Decision

Decision Date: November 15, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009047

[REDACTED]

Dear [REDACTED]

On October 31, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 21, 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.

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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DEPARTMENT OF HEALTH
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Decision

Decision Date: November 15, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009047

[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 the application of your and your spouse's advance premium tax credits, was effective June 1, 2016?

Procedural History

On October 24, 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 and your spouse would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2015 or the financial assistance you were receiving may end.

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

On December 21, 2015, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a qualified health plan at full cost through NYSOH, however, you and your spouse were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame. Your and your spouse's eligibility ended December 31, 2015.

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On December 22, 2015, NYSOH issue an enrollment confirmation notice, confirming your enrollment in a qualified health plan at full cost.

On April 20, 2016, NYSOH received your updated application for health insurance.

On April 21, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were newly eligible to receive up to \$376.00 per month in advance payment of the premium tax credit (APTC). This eligibility was effective June 1, 2016.

On April 21, 2016, NYSOH issued a letter confirming your and your spouse's enrollment in a qualified health plan with a monthly premium responsibility of \$622.00, after your APTC of \$376.00 was applied, effective May 1, 2016.

On April 20, 2016, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it began your financial assistance eligibility on June 1, 2016 and not January 1, 2016.

On October 31, 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) Your NYSOH account indicates that you receive notices from NYSOH by regular mail.
- 2) You testified that you did not receive the October 24, 2015 renewal notice 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.
- 3) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 4) You testified that you did not know you needed to renew your application until March of 2016 when you contacted your plan to inquire about why your premiums had increased. You further testified that your plan directed you to contact NYSOH to update your application.
- 5) You testified that at some point during your conversations with your plan and NYSOH you were advised that information was being sent to you

electronically and that the wrong email address was on file, however, you could not remember whether this conversation was with your plan or NYSOH.

- 6) You also testified that you were not sure if you had ever changed your preference with NYSOH as to how you receive notices, either electronically or via regular mail.
- 7) Your NYSOH account reflects that on April 20, 2016 you contacted NYSOH to update your account. Your account also reflects that day you chose to remain enrolled in the same qualified health plan.

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)

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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 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 15th 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 15th 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).

Legal Analysis

The issue under review is whether NYSOH properly determined that your and your spouse's eligibility for advance premium tax credits was effective June 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 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.

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Because there was no timely response to this notice, your eligibility for financial assistance and your and your spouse's enrollment in a qualified health plan with APTC was terminated effective December 31, 2015.

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 that you were not sure if you had elected to receive notices from NYSOH via regular mail or electronic mail. You also testified that you were not sure if you had ever changed your preferences in your NYSOH from electronic mail to regular mail or vice versa. Your NYSOH account indicates, that you elected to receive notifications by regular mail. 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 April 20, 2016 you updated the information in your NYSOH account.

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 qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected after the fifteenth day of a month goes into effect on the first day of the second following month.

Therefore, NYSOH's April 21, 2016 eligibility determination notice properly found you and your spouse eligible for APTC as of June 1, 2016.

However, NYSOH's April 21, 2016 enrollment confirmation notice found that your and your spouse's APTC of up to \$376.00 per month would be applied to your monthly premium effective May 1, 2016. As per the April 21, 2016 enrollment confirmation notice, NYSOH has voluntarily elected to apply your and your spouse's APTC of up to \$376.00 per month earlier than is required.

In as much as the April 21, 2016 eligibility determination notice finding you and your spouse eligible for APTC of up to \$376.00 per month effective June 1, 2016 is inconsistent with the April 21, 2016 enrollment confirmation notice, the April 21, 2016 eligibility determination notice is MODIFIED to reflect that your and your spouse's eligibility for APTC of up to \$376.00 per month is effective as of May 1, 2016.

The case is RETURNED to NYSOH to apply your and your spouse's APTC of up to \$376.00 per month to your monthly premium effective May 1, 2016.

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Decision

The April 21, 2016 eligibility determination notice is MODIFIED to reflect that you and your spouse are eligible for APTC of up to \$376.00 per month effective May 1, 2016.

The case is RETURNED to NYSOH to apply your and your spouse's APTC of up to \$376.00 per month to your monthly premium effective May 1, 2016.

Effective Date of this Decision: November 15, 2016

How this Decision Affects Your Eligibility

You and your spouse are eligible for APTC of up to \$376.00 per month effective May 1, 2016.

Your case has been returned to NYSOH to make your APTC of up to \$376.00 per month effective May 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.

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.

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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:
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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The April 21, 2016 eligibility determination notice is MODIFIED to reflect that you and your spouse are eligible for APTC of up to \$376.00 per month effective May 1, 2016.

The case is RETURNED to NYSOH to apply your and your spouse's APTC of up to \$376.00 per month to your monthly premium effective May 1, 2016.

You and your spouse are eligible for APTC of up to \$376.00 per month effective May 1, 2016.

Your case has been returned to NYSOH to make your APTC of up to \$376.00 per month effective May 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

