



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

Notice of Decision

Decision Date: January 27, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009887

[REDACTED]

Dear [REDACTED],

On December 6, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's failure to issue a timely notice of eligibility determination and the May 25, 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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulations (CFR) 45 CFR § 155.545(b).

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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: January 27, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009887

[REDACTED]

Issues

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

Did New York State of Health (NYSOH) fail to issue a timely notice of eligibility determination?

Did NYSOH properly determine that you were eligible for up to \$78.00 per month of advance premium tax credit (APTC) effective July 1, 2016?

Procedural History

On November 23, 2015, NYSOH issued an eligibility determination notice stating that you were newly conditional eligible to receive up to \$110.00 of APTC, effective as of January 1, 2016. The notice directed you to submit additional income documentation by February 15, 2016, to confirm your eligibility.

On November 25, 2015, NYSOH issued an enrollment notice confirming that you were enrolled in a MVP Qualified Health Plan (QHP) with a monthly premium of \$421.91 and a plan enrollment start date of January 1, 2016. The notice directed you to submit additional income documentation by February 15, 2016, to confirm your eligibility.

On December 14, 2015, bank statements for the [REDACTED] bank account for the time period of August 22, 2015 through November 23, 2015, were uploaded to your NYSOH account (see Documents [REDACTED]; [REDACTED]; [REDACTED]).

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On December 22, 2015, NYSOH issued a notice stating that you have submitted documentation to resolve the inconsistency with your NYSOH account; however, the documentation appeared to be insufficient to resolve the request. The notice stated that additional information was still required to confirm your eligibility to make an eligibility determination.

On May 2, 2016, your NYSOH account was updated. NYSOH rendered a preliminary eligibility determination stating that you were not eligible to receive help paying for your health insurance coverage, but can purchase a QHP at full cost.

On May 24, 2016, your NYSOH was updated, and your signed 2015 Form 1040 U.S. Individual Income Tax Return was uploaded to your account (see Document [REDACTED]).

Also on May 24, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as NYSOH failed to issue a timely notice of eligibility determination regarding your financial assistance and because your eligibility for APTC had been retroactively terminated.

On May 25, 2016, NYSOH issued an eligibility determination notice stating that you were newly conditional eligible to receive up to \$78.00 of APTC, effective as of July 1, 2016. The notice directed you to submit additional income documentation by August 22, 2016, to confirm your eligibility.

Also on May 25, 2015, NYSOH issued an enrollment notice confirming that as of May 24, 2015, you were enrolled in a MVP QHP with a monthly premium of \$453.91, with a plan enrollment start date of January 1, 2016. The notice stated that your APTC would be applied to your monthly premium effective June 1, 2016.

On December 6, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and the record was left open until December 7, 2016, to allow you to submit (1) your premium payment history with MVP Health Care; and (2) the May 5, 2016 MVP Health Care premium statement.

On December 6, 2016 you uploaded four-pages of documents to your NYSOH account, consisting of a printout of your payment status and history with MVP Health Care, and the May 5, 2016 premium payment notice from MVP Health Care (see Document [REDACTED]). That documentation has been made part of the record. The record is now complete and closed.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You were enrolled in a MVP Health Care QHP with a monthly premium of \$421.91 after your APTC of \$110.00 was applied, with a plan enrollment start date of January 1, 2016.
- 2) On November 23, 2015, NYSOH issued an eligibility determination notice stating that you were only conditionally eligible to receive up to \$110.00 of APTC, effective as of January 1, 2016 and were directed to submit additional income documentation by February 15, 2016, to confirm your eligibility.
- 3) On December 14, 2015, bank statements for the [REDACTED] bank account for the time period of August 22, 2015 through November 23, 2015, were uploaded to your NYSOH account (see Documents [REDACTED]; [REDACTED]; [REDACTED]).
- 4) On December 22, 2015, NYSOH issued a notice stating that you have submitted documentation to resolve the inconsistency with your NYSOH account; however, the documentation appeared to be insufficient to resolve the request. The notice stated that additional information was still required to confirm your eligibility to make an eligibility determination.
- 5) According to your NYSOH account, NYSOH redetermined your eligibility for financial assistance on May 2, 2016.
- 6) According to your NYSOH account and your testimony, NYSOH did not issue an eligibility notice stating that you were no longer eligible for financial assistance.
- 7) On May 5, 2016, MVP Health Care issued you a premium payment notice stating that you were responsible to pay \$1,081.91 for the coverage period of June 1, 2016 to June 30, 2016. The notice specified that your current premium was \$531.91 and the balance forward was \$550.00 (see Invoice #: [REDACTED]).
- 8) You testified you were told by MVP Health Care that your premium payment increased because your tax credit was withdrawn for the five previous months. You were directed to contact NYSOH on this issue.
- 9) You testified you were told by NYSOH that you were no longer eligible for financial assistance because income documentation submitted on

December 14, 2015, was determined not to be sufficient to resolve the request for additional documentation.

- 10) On May 24, 2016, your signed 2015 Form 1040 U.S. Individual Income Tax Return was uploaded to your account (see Document [REDACTED]).
- 11) On May 24, 2016, your NYSOH account was updated. Based on that update, you were found eligible for up to \$78.00 of APTC, effective July 1, 2016.
- 12) According to your NYSOH account, you re-enrolled in the MVP Health Care QHP with a monthly premium of \$453.91 on May 24, 2016.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow the NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i)). If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f)).

NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence (45 CFR §155.315(f)(2)). If NYSOH remains unable to verify the information required to determine the applicant's eligibility after the 90 day period ends, NYSOH must determine the applicant's eligibility based on the information available and notify the applicant of such determination (45 CFR § 155.315(f)(5)).

NYSOH must provide timely written notice to an applicant of any eligibility determination (45 CFR § 155.310(g)).

Redetermination During a Benefit Year

When NYSOH verifies updated information that has been reported by the enrollee, NYSOH must notify the enrollee regarding the new determination and implement any changes in eligibility to APTC effective as of the first day of the

month following the date of the notice (45 CFR § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

Legal Analysis

The first issue is whether NYSOH failed to issue a timely notice of eligibility determination.

You initially enrolled in a QHP, with financial assistance, with an enrollment start date of January 1, 2016.

When NYSOH cannot verify information that is required to make an eligibility determination, they must notify the applicant and allow the applicant time to submit satisfactory documentation.

NYSOH issued an eligibility determination notice on November 23, 2015, finding you conditionally eligible to receive up to \$110.00 of advance premium tax credit effective January 1, 2016. You were directed to provide income documentation by February 15, 2016, in order to confirm the information provided in your application.

On December 14, 2015, bank statements for the [REDACTED] bank account for the time period of August 22, 2015 through November 23, 2015, were uploaded to your NYSOH account.

On December 22, 2015, NYSOH issued a notice stating that you have submitted documentation to resolve the inconsistency with your NYSOH account; however, the documentation appeared to be insufficient to resolve the request. The notice stated that additional information was still required to confirm your eligibility to make an eligibility determination.

The record supports that no additional income documentation was received within the allotted time. On May 2, 2016, NYSOH redetermined that you were no longer eligible for financial assistance. However, the record reflects that NYSOH did not issue an eligibility notice at that time stating that you were no longer eligible for financial assistance.

Therefore, NYSOH failed to issue a timely notice of eligibility determination.

The second issue is whether NYSOH properly determined you eligible for up to \$78.00 of advance premium tax credit effective July 1, 2016.

On May 24, 2016, your signed 2015 Form 1040 U.S. Individual Income Tax Return was uploaded to your account, and your account was updated based on that documentation. On the following day a notice of eligibility redetermination

was issued stating that you were eligible to receive up to \$78.00 of APTC effective July 1, 2016.

Changes in eligibility to APTC are effective as of the first day of the month following the date of the notice. Since the notice, was issued on May 25, 2016, you should have been found eligible for up to \$78.00 of APTC effective June 1, 2016.

Therefore, NYSOH's May 25, 2016, eligibility determination is MODIFIED to state that you were eligible for up to \$78.00 of APTC effective June 1, 2016.

During the hearing you testified and provided documentation to support that your APTC was retroactively terminated back to January 1, 2016, and that your health plan is now directing you to pay the full premium for coverage dating back to January 1, 2016. Any changes in APTC are to be made effective the date following the eligibility determination notice. Accordingly, the change in the amount of your APTC should have only been effected as of June 1, 2016, the month following the May 25, 2016 eligibility redetermination. NYSOH Appeals Unit does not have authority to hear issues involving health plan billing and payments. Therefore, your case is RETURNED to the Department of Health's Plan Management Unit in order to investigate whether or not your plan is incorrectly billing you for months when you should have been receiving APTC.

Decision

NYSOH failed to issue a timely notice of eligibility determination on or about May 2, 2016.

The May 25, 2016, eligibility determination is MODIFIED to state that you were eligible for up to \$78.00 of APTC effective June 1, 2016.

Your case is RETURNED to the Department of Health's Plan Management Unit in order to investigate whether or not your plan is incorrectly billing you for months when you should have been receiving APTC.

Effective Date of this Decision: January 27, 2017

How this Decision Affects Your Eligibility

You were eligible to receive up to \$110.00 of APTC per month from January 1, 2016 through May 31, 2016.

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 were eligible to receive up to \$78.00 of APTC per month effective June 1, 2016.

Your case is also being sent back to allow the Department of Health's Plan Management Unit to investigate your claim that your health plan retroactively terminated your APTC.

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 after the date 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 date 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
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- By fax: 1-855-900-5557

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Summary

NYSOH failed to issue a timely notice of eligibility determination on or about May 2, 2016.

The May 25, 2016, eligibility determination is MODIFIED to state that you were eligible for up to \$78.00 of APTC effective June 1, 2016.

Your case is RETURNED to the Department of Health's Plan Management Unit in order to investigate whether or not your plan is incorrectly billing you for months when you should have been receiving APTC.

You were eligible to receive up to \$110.00 of APTC per month from January 1, 2016 through May 31, 2016.

You were eligible to receive up to \$78.00 of APTC per month effective June 1, 2016.

Your case is also being sent back to allow the Department of Health's Plan Management Unit to investigate your claim that your health plan retroactively terminated your APTC.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

