



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

Notice of Decision

Decision Date: December 21, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010059

[REDACTED]

Dear [REDACTED] and [REDACTED],

On December 1, 2016, [REDACTED] appeared by telephone at a hearing on your appeal of NY State of Health's February 18, 2016 disenrollment notice, June 3, 2016 eligibility determination notice and the June 4, 2016 enrollment confirmation notice regarding his eligibilities and enrollments.

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.

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Legal Authority

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

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Issues

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

Did NY State of Health (NYSOH) properly determine that your domestic partner ([REDACTED]) was disenrolled from his Medicaid Managed Care plan, effective February 29, 2016?

Did NYSOH properly determine that his enrollment in the Essential Plan was effective July 1, 2016?

Did NYSOH properly determine that he was eligible to receive up to \$104.00 per month in advance payments of the premium tax credit, effective December 1, 2016?

Procedural History

On April 30, 2015, NYSOH issued a notice of eligibility determination stating that your domestic partner's eligibility for Medicaid had ended; however, his coverage would continue until February 29, 2016. That notice also stated that you must come back between January 15, 2016 and February 14, 2016 and update your domestic partner's information on your NYSOH account.

On January 13, 2016, NYSOH issued a notice that it was time to renew your domestic partner's health insurance for 2016. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether he would qualify for financial help paying for his health coverage,

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and that you needed to update his information on your NYSOH account by February 15, 2016 or he might lose the financial assistance he was currently receiving.

No updates were made to your NYSOH account by February 15, 2016.

On February 17, 2016, NYSOH issued an eligibility determination notice stating that your domestic partner was not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your domestic partner also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed his renewal within the required time frame. Your domestic partner's then current eligibility ended February 29, 2016.

On February 18, 2016, NYSOH issued a disenrollment notice stating that your domestic partner's Medicaid Managed Care plan would end effective February 29, 2016. This was because you did not renew your domestic partner's health insurance coverage in the timeframe allotted.

On June 2, 2016, NYSOH received your domestic partner's updated application for health insurance.

Also, on June 2, 2016, you or your domestic partner spoke to NYSOH's Account Review Unit and appealed the start date of his Essential Plan insofar as it began on July 1, 2016, and not June 1, 2016.

On June 3, 2016, NYSOH issued an eligibility redetermination notice, based on the June 2, 2016 updated application, stating that your domestic partner was eligible to enroll in an Essential Plan, effective July 1, 2016.

On June 4, 2016, NYSOH issued an enrollment confirmation notice, based on your domestic partners' June 2, 2016 plan selection, stating he was enrolled in an Essential Plan at a cost of \$20.00 per month with an enrollment start date of July 1, 2016.

Also on October 23, 2016, NYSOH issued an eligibility determination notice, based on your domestic partner's October 22, 2016 updated application, stating that he was eligible for Advance Premium Tax Credits (APTC) in an amount up to \$104.00 per month. This eligibility was effective as of December 1, 2016.

Also on October 23, 2016, NYSOH issued an enrollment confirmation notice, based on your October 22, 2016 updated application, stating that your domestic partner may be able to enroll into health coverage and that he should sign into your account and answer questions about the Special Enrollment period.

On November 16, 2016, NYSOH issued an enrollment confirmation notice, based on your domestic partner's November 15, 2016 plan selection, stating that he was enrolled in a QHP at a cost of \$454.07 per month, effective December 1, 2016.

On December 2, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your domestic partner testified on his own behalf and requested to amend the appeal to include a review of his eligibilities, gap in health insurance coverage, and enrollments in 2016. The record was kept open for submission of proof of your income and your domestic partner's income for the 2015 income tax year. That proof of income was received at the Appeals Unit on December 13, 2016, and was made part of the record collectively as "Appellants' Exhibit 1." The record is now closed.

Findings of Fact

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

- 1) According to your NYSOH account and your domestic partner's testimony, you receive all of your notices from NYSOH by regular mail.
- 2) Your domestic partner testified that neither you nor he received any notices telling you or him that your application needed to be updated in order to renew his Medicaid Managed Care coverage.
- 3) Your domestic partner testified that he did not know that he needed to update your account until he visited the hospital emergency department in March 2016 and/or June 2016 and received a bill for their services.
- 4) Your domestic partner testified that NYSOH sent notices to an incorrect address on file and that is the reason you and your domestic partner did not receive any notice to renew his health coverage.
- 5) Your domestic partner testified that you don't receive mail at your current residential address and that it has to go to the post office box. According to him, the correct address to receive mail is the PO Box listed in your NYSOH account and on the address line of this Decision.
- 6) According to your NYSOH account, the April 30, 2015 eligibility determination notice and the January 13, 2016 renewal notice were both sent to the PO Box listed on your NYSOH account and noted above. Both notices notified you that you and/or your domestic partner must return to your NYSOH account to update the information on his

application by a date certain or risk losing financial assistance and coverage.

- 7) According to your NYSOH account, on June 2, 2016, NYSOH received your updated application for health insurance.
- 8) According to your NYSOH account and your domestic partner's testimony, your domestic partner selected his Essential Plan on June 2, 2016, and that his enrollment was effective on July 1, 2016.
- 9) According to your NYSOH account, on September 27, 2016, your domestic partner spoke to a representative from NYSOH's Account Review Unit and requested that the hearing notice be sent to your residential address.
- 10) According to your NYSOH account, no notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 11) Your domestic partner testified that he wants his Essential Plan to begin on March 1, 2016, because he has medical bills from the months he was without coverage from that date through June 30, 2016.
- 12) Your domestic partner testified that he expects to file his 2016 taxes with a tax filing status of single. He will claim one dependent on that tax return.
- 13) The application that was submitted on June 2, 2016 listed annual household income of \$36,000.00, consisting solely of his earnings from his employment. Your domestic partner says he believes his income may be lower this year, but he was not sure.
- 14) Your domestic partner testified that, although you reside in the same home, you file your taxes separately and claim your other child as a dependent on your tax return.
- 15) According to your NYSOH account, your domestic partner will not be taking any deductions on his 2016 tax return.
- 16) According to your NYSOH account, your domestic partner lives in Warren County.

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

Applicable Law and Regulations

Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every twelve months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual’s account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR §155.335(h)).

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

Medicaid Managed Care (MMC) plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H(6)(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019, N.Y. Soc. Serv. Law §364-j(1)(c); 18 NYCRR § 360-10.3(h)).

Household Income and Size

A taxpayer’s family includes all people for whom the taxpayer can properly claim a deduction for a personal exemption (26 CFR § 1.36B-1(d)). In general, household income includes the modified adjusted gross income of every person who is in the taxpayer’s family and is required to file a federal tax return (26 CFR § 1.36B-1(e)).

Household size means the number of persons counted as a member of an individual’s household. In the case of a married couple living together, each spouse will be included in the household of the other spouse, regardless of whether they expect to file a joint tax return (42 CFR § 435.603 (f)(4)).

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For purposes of advance premium tax credit (APTC) and cost-sharing reductions (CSR), the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

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

- 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 domestic partner's application, that was the 2015 FPL, which is \$ 15,930.00 for a two-person household (80 Federal Register 3236, 3237).

For annual household income in the range of at least 200 % but less than 250 % of the 2015 FPL, the expected contribution is between 6.41% and 8.18% 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).

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People who use APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on NYSOH application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the 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 first issue under review is whether NYSOH properly disenrolled your domestic partner from his Medicaid Managed Care plan effective February 29, 2016.

Your domestic partner was originally found eligible for Medicaid on September 1, 2014.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. However, on April 29, 2015, NYSOH redetermined your domestic partner's eligibility and found that he was no longer eligible for Medicaid, but his coverage would continue until February 29, 2016. This afforded him 18 months of Medicaid continuous coverage; which is more than the 12 months he was entitled to.

On April 30, 2015, NYSOH issued an eligibility redetermination notice which notified you and your domestic partner that his coverage would end effective February 29, 2016 and that you must update your domestic partner's information on your NYSOH account between January 15, 2016 and February 14, 2016. Additionally, on January 13, 2016, NYSOH issued a renewal notice stating that there was not enough information to determine whether your domestic partner was eligible to continue to receive financial assistance for health insurance, and

that you needed to supply additional information by February 15, 2016, or his financial assistance might end.

Because there was no timely response to these notices, your domestic partner was terminated from his Medicaid Managed Care plan effective February 29, 2016.

Your domestic partner testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. Your domestic partner testified that neither you nor he received any notice from NYSOH telling either of you that you needed to update the information in your NYSOH account for his eligibility for financial assistance to be redetermined. Your domestic partner testified that neither of you receive mail at your current residential address and that it has to go to the post office box. He stated that the correct address to receive NYSOH notices is the PO Box listed in your NYSOH account and as noted above.

However, the record reflects that both the January 13, 2016 renewal notice and the April 30, 2015 eligibility determination notice were addressed to the post office box listed on your NYSOH account. Further, on September 27, 2016, your domestic partner spoke to a representative from NYSOH's Account Review Unit and requested that the hearing notice be sent to your residential address. These facts conflict with your domestic partner's testimony that his mail is undeliverable to the residential address and that neither you nor he received the January 13, 2016 notice to renew because it was supposed to be sent to the post office box address. Additionally, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable. As such, those notices are deemed to have been properly sent.

Therefore, the record reflects that NYSOH properly notified you and your domestic partner of his annual renewal and that information in your NYSOH account needed to be updated in order to ensure his enrollment in a health plan and eligibility for financial assistance would continue without interruption. Therefore, the February 18, 2016 disenrollment notice is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your domestic partner's enrollment in his Essential Plan was effective July 1, 2016.

The record shows that, on June 2, 2016, your domestic partner updated the information in your NYSOH account and submitted a request to enroll in an Essential Plan that same day.

The date on which an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day up to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is

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selected after the fifteenth day of a month goes into effect on the first day of the second following month.

Since your domestic partner selected his Essential Plan on June 2, 2016, it must take effect on the first day of the month following after June 2016; that is, on July 1, 2016.

Therefore, the June 3, 2016 eligibility determination notice is AFFIRMED because it properly began your domestic partner's eligibility in his Essential Plan on July 1, 2016.

In addition, NYSOH's June 4, 2016 enrollment confirmation notice is AFFIRMED because it properly began your domestic partner's enrollment in his Essential plan on July 1, 2016.

The third issue under review is whether NYSOH properly determined that your domestic partner was eligible for APTC of up to \$104.00 per month, effective December 1, 2016.

The updated application that was submitted on November 9, 2016 listed your domestic partner's expected annual household income of \$36,000.00 and the eligibility determination relied upon that information. Your domestic partner thought it might be a little less by the end of 2016, but was unsure.

Household size, for purposes of APTC eligibility, is the taxpayer and any claimed dependents. Your domestic partner testified that he expects to file his 2016 tax return as single and claim one dependent on his tax return. Therefore, he is in a two-person household.

Your domestic partner resides in Warren County, where the second lowest cost silver plan available for an individual through NYSOH costs \$393.63 per month.

An annual income of \$36,000.00 is 225.99% of the 2015 FPL for a two-person household. At 225.99% of the FPL, the expected contribution to the cost of the health insurance premium is 7.33% of income, or \$219.90 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 (\$393.63 per month) minus his expected contribution (\$219.90 per month), which equals \$173.73 per month. Therefore, rounding to the nearest dollar, your domestic partner should have been eligible for an amount up to \$174.00 per month in APTC.

Although NYSOH incorrectly determined your domestic partner to be eligible for up to \$104.00 per month in APTC, it cannot be applied retroactively. Since it is nearly the end of the 2016 policy year, no further action by NYSOH is required at

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this time. Instead, at the end of a tax year, a person who elects to take the 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, which may also result in a tax credit or reduction in tax liability if the full amount of APTC to which a person is entitled is not taken throughout the year, as in your domestic partner's case. Conversely, if a person received more APTC than their maximum entitlement, based on gross income, they might owe the excess as an additional income tax liability. Therefore, the amount of APTC to which your domestic partner was entitled in December 2016 can be reconciled at the time that he files his 2016 federal tax return.

Decision

The February 18, 2016 disenrollment notice is AFFIRMED.

The June 3, 2016 eligibility determination notice is AFFIRMED.

The June 4, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: December 21, 2016

How this Decision Affects Your Eligibility

Your domestic partner's enrollment in his Medicaid Managed Care plan ended February 29, 2016.

The effective date of your domestic partner's Essential Plan eligibility and enrollment is July 1, 2016.

He had a gap in health insurance coverage through NYSOH from March 1, 2016 through June 30, 2016.

This decision does not change his eligibility.

No further action by NYSOH is needed at this time. The amount of APTC to which he was entitled, if any, will be reconciled when he files his 2016 income tax return.

If You Disagree with this Decision (Appeal Rights)

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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):

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Summary

The February 18, 2016 disenrollment notice is AFFIRMED.

The June 3, 2016 eligibility determination notice is AFFIRMED.

The June 4, 2016 enrollment confirmation notice is AFFIRMED.

Your domestic partner's enrollment in his Medicaid Managed Care plan ended February 29, 2016.

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The effective date of your domestic partner's Essential Plan eligibility and enrollment is July 1, 2016.

He had a gap in health insurance coverage through NYSOH from March 1, 2016 through June 30, 2016.

This decision does not change his eligibility.

No further action by NYSOH is needed at this time. The amount of APTC to which he was entitled, if any, will be reconciled when he files his 2016 income tax return.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

