



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

## Notice of Decision

Decision Date: January 4, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010063

[REDACTED]

[REDACTED]

On December 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 12, 2016 eligibility determination.

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 NY State of Health 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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## Decision

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010063



## 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 not eligible for advance payments of the premium tax credit (APTC) as of May 1, 2016 because mail addressed to you had been returned to NYSOH as undeliverable?

## Procedural History

On February 13, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to receive APTC of up to \$243.00 per month, effective March 1, 2016, and eligible for cost-sharing reductions (CSR), effective March 1, 2016.

Also on February 13, 2016, an enrollment confirmation notice was issued confirming your enrollment in a silver level qualified health plan (QHP), with your coverage and the application of your APTC beginning on March 1, 2016.

On February 29, 2016, the February 13, 2016 eligibility determination and enrollment confirmation notices were marked by NYSOH as "Return Mail," with no forwarding address, and on April 12, 2016, the returned notices were uploaded to your NYSOH account.

Also on April 12, 2016, NYSOH issued an eligibility determination stating that you were newly eligible to purchase a QHP at full cost, effective May 1, 2016. The notice stated that you were not eligible to receive APTC because mail that was

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sent to you from NYSOH was returned as undeliverable. The notice also stated that you were not eligible to receive CSR because you were no longer eligible to receive APTC.

Also on April 12, 2016, NYSOH issued an enrollment confirmation notice confirming your enrollment in the same silver level QHP you were enrolled in effective March 1, 2016, but reflecting \$0.00 in APTC applied to your premium cost.

On April 25, 2016, the enrollment confirmation notice was marked by NYSOH as "Returned Mail," and the notice was uploaded to your NYSOH account on May 25, 2016.

On June 2, 2016, you updated your NYSOH account.

Also on June 2, 2016, you spoke with NYSOH's Account Review Unit and appealed the April 12, 2016 eligibility determination, insofar as you were not eligible for APTC and CSR in the months of May and June 2016.

On June 3, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$84.00 per month in APTC, effective July 1, 2016.

Also on June 3, 2016, NYSOH issued a notice of enrollment confirmation stating that your enrollment in your QHP began on March 1, 2016, and that the application of your \$84.00 APTC to your monthly premium would begin on July 1, 2016.

On December 7, 2016, you had a telephone hearing with a Hearing Officer from the Marketplace'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 testified that you contacted NYSOH by phone in February 2016 to update your application for insurance coverage.
- 2) You testified that, when you updated your application in February 2016, you gave the NYSOH representative your new address and informed them that you no longer lived at the address in your account.

- 3) Your NYSOH account reflects that the Residential Address was updated in your NYSOH account on February 12, 2016, but the mailing address was not.
- 4) Your NYSOH account contains three notices addressed to your [REDACTED] address, which were marked by NYSOH as "Returned Mail."
- 5) The events tab in your NYSOH account indicates that your mailing address was marked "invalid" on April 11, 2016.
- 6) You testified that you contacted NYSOH on June 2, 2016 after you received an invoice in May 2016 for the full premium amount for May and June 2016.
- 7) You testified that the NYSOH representative informed you that the person you spoke with in February had made a mistake and failed to update your mailing address at that time.
- 8) Your NYSOH account reflects that your mailing address was changed to your current address, [REDACTED], as of June 1, 2016.
- 9) You testified that you paid your full premium for the months of May and June 2016, and are now seeking to have your tax credit of \$243.00 reinstated for those months.
- 10) You testified that, when you called on June 2, 2016, you also updated your income amount because your salary was going to increase. However, you testified that your income did not actually go up until July 1, 2016.

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

## **Applicable Law and Regulations**

### State Residency Requirement

To be eligible for enrollment in a qualified health plan (QHP) and eligible to receive an advance premium tax credit (APTC) through the New York State of Health Marketplace, an applicant must be a resident of New York State (45 CFR § 155.305(a)(3), (f)(1)(ii)(A)).

For an individual who is aged 21 or older, not living in an institution, and able to indicate intent, that individual is deemed to be a resident of the Exchange service

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area in which or she lives and either a) intends to reside, even without a fixed address, or b) has entered with a job commitment or is seeking employment. (45 CFR § 155.305(a)(3)(i)).

## **Legal Analysis**

The issue under review is whether the Marketplace properly determined that your household was not eligible for APTC and CSR during the months of May and June 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage and obtain APTC through NYSOH, and must confirm, among other things, that their residency status is satisfactory.

You testified that, when you updated your account on February 12, 2016, you updated your address with the NYSOH representative you spoke with. However, your NYSOH account reflects that only your Residential Address, and not your Mailing Address, were updated on that date. As a result, the February 13, 2016 eligibility determination and enrollment confirmation notices were returned to NYSOH as undeliverable, as they were sent to your former mailing address.

On April 12, 2016, NYSOH issued a notice of eligibility determination that stated, in part, that you were not eligible for APTC and CSR effective May 1, 2016 because notices sent to you by U.S. mail to the mailing address provided in your account were returned to NYSOH as undeliverable.

However, it was the failure of a NYSOH representative to update your mailing address on February 12, 2016 that caused the subsequent notices to be sent to the wrong address. As a result, your mailing address was incorrectly invalidated on April 11, 2016.

You testified at the hearing that your income did not change until July 1, 2016. As such, you should have continued to receive the same amount of tax credit you were found eligible for in February 2016 for the months of May and June 2016. Additionally, you should have continued to receive CSR for the months of May and June 2016.

Therefore, the April 12, 2016 eligibility determination notice stating that you were not eligible for APTC and CSR because the Marketplace sent you information but that information was returned to the Marketplace as undeliverable, was not correct and is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your \$243.00 APTC for the months of May and June 2016, and to reinstate your CSR for the months of May and June 2016.

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## **Decision**

The April 12, 2016 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace to facilitate the reinstatement of your \$243.00 APTC, and to facilitate the reinstatement of your CSR, for the months of May and June 2016.

**Effective Date of this Decision:** January 4, 2017

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

The Marketplace incorrectly terminated your APTC/CSR coverage for May and June 2016.

The Marketplace will ensure that you receive the APTC and CSR coverage you were entitled to in the months May and June 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):**

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## **Summary**

The April 12, 2016 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace to facilitate the reinstatement of your \$243.00 APTC, and to facilitate the reinstatement of your CSR, for the months of May and June 2016.

The Marketplace incorrectly terminated your APTC/CSR coverage for May and June 2016.

The Marketplace will ensure that you receive the APTC and CSR coverage you were entitled to in the months May and June 2016.

## **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545.



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

