



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

Notice of Decision

Decision Date: December 7, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010076

[REDACTED]

Dear [REDACTED],

On November 29, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's June 3, 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 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

Decision Date: December 7, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010076



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 ineligible for advance premium tax credits for the month of June, 2016?

Procedural History

On November 24, 2015, NYSOH received your updated application for financial assistance.

On November 25, 2015, NYSOH issued an eligibility determination notice finding you conditionally eligible to receive advance premium tax credits up to \$187.00 per month as well as cost sharing reductions effective January 1, 2016. The determination stated your eligibility was based on the condition that you provide additional income documentation before February 22, 2016. The determination was based on your attested annual household income of \$28,080.00.

Also on November 25, 2015, an enrollment confirmation notice was issued confirming your enrollment in a Bronze level qualified health plan with a premium responsibility of \$112.97 per month effective January 1, 2016. This amount was after the application of the \$187.00 premium tax credits was applied.

No income documentation was received before February 22, 2016.

On June 2, 2016, you contacted NYSOH and updated your application.

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Also on June 2, 2016, you spoke to NYSOH's Account Review Unit and appealed the loss of your advance premium tax credit and cost sharing reductions towards your premium responsibility for the month of June, 2016.

On June 3, 2016, NYSOH issued an eligibility determination notice based on the June 2, 2016 application stating that you were newly conditionally eligible to receive advance premium tax credits up to \$187.00 per month and if you enrolled in a silver level qualified health plan, cost-sharing reductions effective July 1, 2016. You were asked to provide income documentation to confirm your income before August 31, 2016.

On November 29, 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 support the following findings of fact:

- 1) You submitted an application to NYSOH for financial assistance on November 24, 2015.
- 2) You testified, and the record reflects, that you selected a qualified health plan on November 24, 2015.
- 3) Your enrollment in the plan became effective January 1, 2016.
- 4) You testified you lost your advance premium tax credit and cost sharing reductions towards your premium responsibility during the month of June, 2016.
- 5) Your NYSOH account indicates you receive all of your notices via electronic communication. You testified this was correct.
- 6) You testified you did receive alerts to go into your NYSOH account, but when you access your online account you are unable to read the messages in your inbox. You explained that the text of every document is jumbled letters and numbers. You testified you have explained this to NYSOH representatives on more than one occasion.
- 7) You testified you were not told by a NYSOH representative that you need to provide income documentation to confirm your attested household income by February 22, 2016.

- 8) The record supports NYSOH did not issue a notice or alert stating your eligibility for advance premium tax credits and cost sharing reductions would be terminated May 31, 2016.
- 9) You are seeking the application of advance premium tax credits and cost sharing reductions for the entire year of 2016.

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

Applicable Law and Regulations

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of advance payments of the premium tax credit (APTC) for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already 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 to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health 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)). 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)).

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, the NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i)). If NYSOH cannot verify the income

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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)).

Electronic Notices

If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4),(5)).

Legal Analysis

The issue under review is whether NYSOH properly determined you were ineligible to receive advance premium tax credits for the month of June, 2016.

When you initially applied to NYSOH for 2016 coverage on November 24, 2015, you were found conditionally eligible to receive advance premium tax credits up to \$187.00 per month effective January 1, 2016. This determination was only conditional and you were asked to provide income documentation to confirm the income you reported in your application by February 22, 2016.

You then enrolled in a Bronze level qualified health plan with a premium responsibility of \$112.97 per month effective January 1, 2016. This amount was your premium responsibility after the \$187.00 advance premium tax credits were applied.

When NYSOH cannot verify information that is required to make an eligibility determination, it must notify the applicant and allow the applicant time to submit satisfactory documentation. The notice issued on November 25, 2015, stated your eligibility was only conditional and you needed to provide income documentation before February 22, 2016.

No income documentation was ever received by NYSOH before February 22, 2016.

Because there was no timely response to this notice, your eligibility for financial assistance was terminated effective May 31, 2016.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that although

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you receive electronic alerts, you are unable to read the text of the documents. When you open the document, you only see out of order numbers and letters.

There is no evidence in your account documenting that any email alert was sent to you regarding the termination of your eligibility for advance premium tax credits and cost sharing reductions. Furthermore, there is also no evidence that such a notice was ever generated by NYSOH to alert you to the loss of your eligibility effective May 31, 2016.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account.

The record shows that on June 2, 2016, you updated the information in your NYSOH account. On June 3, 2016, NYSOH issued an eligibility determination finding you conditionally eligible to receive advance premium tax credits up to \$187.00 per starting July 1, 2016.

Therefore, NYSOH's June 3, 2016, eligibility determination notice is MODIFIED to state that you were eligible for advance premium tax credits of \$187.00 per month as well as cost sharing reductions to be effective January 1, 2016.

Your case is RETURNED to NYSOH to ensure the application of advance premium tax credits of up to 187.00 per month effective January 1, 2016 through December 31, 2016.

Decision

The June 3, 2016, eligibility determination notice is MODIFIED to state that you were eligible for advance premium tax credits of \$187.00 per month as well as cost sharing reductions to be effective January 1, 2016.

Your case is RETURNED to NYSOH to ensure the application of advance premium tax credits of up to 187.00 per month effective January 1, 2016 through December 31, 2016.

Effective Date of this Decision: December 7, 2016

How this Decision Affects Your Eligibility

Your eligibility for advance premium tax credits of up to \$187.00 per month is to begin as of January 1, 2016, and continue until December 31, 2016.

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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.

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

Summary

The June 3, 2016, eligibility determination notice is MODIFIED to state that you were eligible for advance premium tax credits of \$187.00 per month as well as cost sharing reductions to be effective January 1, 2016.

Your case is RETURNED to NYSOH to ensure the application of advance premium tax credits of up to 187.00 per month effective January 1, 2016 through December 31, 2016.

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Your eligibility for advance premium tax credits of up to \$187.00 per month is to begin as of January 1, 2016, and continue until December 31, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

