



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

Notice of Decision

Decision Date: March 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010996



Dear [REDACTED],

On January 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 14, 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 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.

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010996



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 July 1, 2016 because mail addressed to you had been returned to NYSOH as undeliverable?

Procedural History

On May 11, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to receive APTC of up to \$314.00 per month, effective June 1, 2016 and eligible for cost-sharing reductions, effective June 1, 2016.

On May 15, 2016, NYSOH issued an enrollment notice confirming your enrollment in a silver-level qualified health plan (QHP), with your coverage and the application of your APTC beginning June 1, 2016.

On May 25, 2016, the May 15, 2016 enrollment confirmation notice was marked by NYSOH as "Return Mail," with no forwarding address, and on June 13, 2016, the returned notice was uploaded to your NYSOH account.

On June 14, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a QHP at full cost, effective July 1, 2016. The notice stated that you were not eligible to receive APTC because mail that was sent to you from NYSOH was returned as undeliverable. The notice also

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stated that you were not eligible to receive cost sharing reductions because you were no longer eligible to receive APTC.

Also on June 14, 2016, NYSOH issued an enrollment confirmation notice confirming your enrollment in the same silver-level QHP you were enrolled in effective June 1, 2016, but reflecting \$0.00 in APTC applied to your premium cost.

On June 23, 2016, the June 14, 2016 enrollment confirmation notice was marked by NYSOH as "Returned Mail," and the returned notice was uploaded to your NYSOH account on July 11, 2016.

On July 7, 2016, the June 14, 2016 eligibility redetermination notice was marked by NYSOH as "Returned Mail," and the returned notice was uploaded to your NYSOH account on July 21, 2016.

On July 13, 2016, NYSOH issued an eligibility redetermination notice that stated you were eligible to receive APTC of up to \$314.00 per month and eligible for cost-sharing reductions (CSR), effective August 1, 2016. That notice further stated you did not qualify to select a health plan outside of the open enrollment period for 2016.

Also on July 13, 2016, July 20, 2016 and July 23, 2016, NYSOH issued enrollment confirmation notices confirming your enrollment in a silver-level QHP, with your coverage starting June 1, 2016 and the application of your APTC beginning on August 1, 2016.

On July 22, 2016, NYSOH received your updated application for health insurance. That day, a preliminary eligibility determination was prepared finding you eligible to receive APTC of up to \$314.00 per month and eligible for cost-sharing reductions, effective September 1, 2016.

Also on July 22, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to the start date of your APTC.

On July 23, 2016, NYSOH issued an eligibility redetermination notice, based on the updated July 22, 2016 application, that stated you were eligible to receive APTC of up to \$314.00 per month and eligible for cost-sharing reductions, effective September 1, 2016. That notice further stated you did not qualify to select a health plan outside of the open enrollment period for 2016.

On August 25, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a QHP at full cost, effective October 1, 2016. The notice stated that you were not eligible to receive APTC because mail that was sent to you from NYSOH was returned as undeliverable. The notice also

stated that you were not eligible to receive cost sharing reductions because you were no longer eligible to receive APTC.

Also on August 25, 2016, NYSOH issued an enrollment confirmation notice confirming your enrollment in the same silver-level QHP you were enrolled in effective June 1, 2016, but reflecting \$0.00 in APTC applied to your premium cost.

On October 11, 2016, NYSOH issued a disenrollment notice that stated your silver-level QHP was terminated effective August 31, 2016 because premium payments had not been received within the required timeframe in order to maintain coverage.

On January 10, 2017, 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) You testified that you had insurance through your parents plan up until the end of May 2016.
- 2) According to your NYSOH account and your testimony, you contacted NYSOH by phone on May 10, 2016 to and submitted your application for insurance coverage.
- 3) You testified that, when you spoke to NYSOH representative, you provided both your residence address and mailing address. You testified that your residence is [REDACTED] and your mailing address is [REDACTED].
- 4) Your NYSOH account reflects that the May 15, 2016 enrollment confirmation notice was addressed to [REDACTED]. This notice was marked as returned mail by NYSOH on May 25, 2016 and uploaded to your account on June 13, 2016.
- 5) The events tab in your NYSOH account indicates that your mailing address was marked "invalid" on June 13, 2016.
- 6) Your NYSOH account reflects that the June 14, 2016 enrollment confirmation notice was addressed to [REDACTED]. This notice was marked as returned mail by NYSOH on June 23, 2016 and uploaded to your account on July 11, 2016.

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- 7) According to your NYSOH account, on July 12, 2016, you spoke to a NYSOH representative and again provided your correct mailing address.
- 8) Your NYSOH account reflects that the July 20, 2016 enrollment confirmation notice was addressed to [REDACTED]. This notice was marked as returned mail by NYSOH on August 3, 2016 and uploaded to your account on August 25, 2016.
- 9) According to your NYSOH account, on July 22, 2016 you spoke to a NYSOH representative. You testified that you again provided your correct mailing address.
- 10) Your NYSOH account reflects that the July 23, 2016 eligibility redetermination, enrollment confirmation notice, and the confirmation of your appeal were mailed to you at address [REDACTED].
- 11) The events tab in your NYSOH account indicates that your mailing address was again marked "invalid" on August 24, 2016. This was due to the upload of the July 20, 2016 enrollment confirmation that was marked returned on August 3, 2016.
- 12) According to your NYSOH account, on August 25, 2016, NYSOH issued an eligibility redetermination that was addressed to the correct mailing address of [REDACTED].
- 13) You testified that as a result of your APTC ending in July 2016, your plan would not reinstate you unless you paid \$734.27 in premiums for July 2016 and August 2016.
- 14) You testified that you could not afford to make this large premium payment to reinstate your coverage.
- 15) According to your NYSOH account, on October 11, 2016, NYSOH issued a disenrollment notice terminating your silver-level QHP effective August 31, 2016 for non-payment of premium.
- 16) You testified that it was not your fault that the mailing addresses that NYSOH used to send you notices were inaccurate.
- 17) You testified that, because NYSOH used the wrong mailing addresses, your APTC was wrongly cancelled. You testified that by the time NYSOH fixed the mailing address error, your health plan required you to pay for two months of coverage at once in order to be reinstated.

18) You testified that you were unable to afford to make two months of full premium payments and, as a result, the health plan cancelled your coverage for non-payment of premium. You further testified that this resulted in you being unable to enroll in health insurance for the remainder of the 2016 coverage year.

19) You testified that you are concerned about the IRS tax penalty for not having health insurance for the requisite number of months in 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 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 NYSOH properly determined that you were not eligible for APTC or cost sharing reductions, effective July 1, 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 on May 10, 2016, when you contacted NYSOH by telephone and spoke with a representative, you provided the correct residence address and separate mailing address. You testified that you live at [REDACTED] but that your mailing address is [REDACTED].

A review of your NYSOH account and the various notices that were issued indicate that your mailing address was repeatedly entered incorrectly by NYSOH representatives. This error in entering your mailing address resulting in several notices being returned by the post office to NYSOH. Upon receiving these notices back and then being marked as returned mail, NYSOH invalidated your mailing address and, thus your state residency.

On June 14, 2016, NYSOH issued a notice of eligibility determination that stated, in part, that you were not eligible for APTC and cost sharing reductions effective July 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 NYSOH representatives to correctly input your mailing address when you initially applied for health insurance on May 10, 2016 that caused the May 15, 2016 enrollment notice to be returned by the post office.

Further, the record reflects and you testified that you contacted NYSOH on two subsequent occasions in an effort to correct the mailing address issue. However, the record reflects that on those occasions your mailing address was incorrectly entered resulting in additional notices being returned by the post office.

Therefore, the June 14, 2016 eligibility determination notice stating that you were not eligible for APTC and cost sharing reductions because NYSOH sent you information but that information was returned to NYSOH as undeliverable, was incorrect and is RESCINDED.

Ordinarily your case would be RETURNED to NYSOH to reinstate your \$314.00 APTC and your cost sharing reductions for the month of July 2016 and going forward through the end of 2016. However, you testified that you did not incur any medical bills and are only concerned about being exposed to an IRS tax penalty at this late date. Therefore, it is reasonable to conclude that it would be unjust to hold you responsible to pay monthly premiums for health insurance coverage from July 1, 2016 through the end of 2016 that you did not have access to and, therefore, could not utilize.

Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. You might qualify for a health coverage exemption in 2016 if you didn't have health coverage while you were waiting for an appeal decision about coverage eligibility or savings **and** your appeal was eventually successful.

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

You will find the information you need to claim the exemption due to an appeal decision at <https://www.healthcare.gov/exemptions-tool/#/results/2016/details/eligible-based-on-appeal>. You can also call 1-800-318-2596.

Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word “pending” in column “c” and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

Decision

The June 14, 2016 eligibility determination is RESCINDED.

Ordinarily your case would be RETURNED to NYSOH to reinstate your \$314.00 APTC and your cost sharing reductions for the month of July 2016 and going forward through the end of 2016. However, you testified that you did not incur any medical bills and are only concerned about being exposed to an IRS tax [penalty at this late date. Therefore, it is reasonable to conclude that it would be unjust to hold you responsible to pay monthly premiums for health insurance coverage from July 1, 2016 through the end of 2016 that you did not have access to and, therefore, could not utilize.

Effective Date of this Decision: March 13, 2017

How this Decision Affects Your Eligibility

NYSOH incorrectly terminated your APTC/CSR coverage effective July 1, 2016.

Ordinarily, your case would be RETURNED to NYSOH to ensure that you receive the APTC and CSR coverage you were entitled to effective July 1, 2016 and for the remaining months of 2016. However, this decision does not direct such action because you testified that you did not incur any medical bills and are only concerned about being exposed to an IRS tax penalty at this late date. Therefore, it is concluded that it would not be fair to make you pay monthly premiums for health insurance coverage you could not use.

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.

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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 14, 2016 eligibility determination is **RESCINDED**.

Ordinarily your case would be RETURNED to NYSOH to reinstate your \$314.00 APTC and your cost sharing reductions for the month of July 2016 and going forward through the end of 2016. However, you testified that you did not incur any medical bills and are only concerned about being exposed to an IRS tax [penalty at this late date. Therefore, it is reasonable to conclude that it would be unjust to hold you responsible to pay monthly premiums for health insurance coverage from July 1, 2016 through the end of 2016 that you did not have access to and, therefore, could not utilize.

NYSOH incorrectly terminated your APTC/CSR coverage effective July 1, 2016.

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Ordinarily, your case would be RETURNED to NYSOH to ensure that you receive the APTC and CSR coverage you were entitled to effective July 1, 2016 and for the remaining months of 2016. However, this decision does not direct such action because you testified that you did not incur any medical bills and are only concerned about being exposed to an IRS tax penalty at this late date. Therefore, it is concluded that it would not be fair to make you pay monthly premiums for health insurance coverage you could not use.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

