



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

## Notice of Decision

Decision Date: February 9, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011538

[REDACTED]

Dear [REDACTED],

On January 11, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 21, 2015 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 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: February 9, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011538



## 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 the eligibility of you and your spouse for advance payments of the premium tax credit began no earlier than July 1, 2016?

## Procedural History

On December 4, 2013, NYSOH issued a notice confirming your election to receive all information from NYSOH electronically. This notice stated that all important notifications would be sent to your NYSOH account.

On December 10, 2014, NYSOH issued an enrollment notice confirming your selection of CareConnect EPO Silver ST IN N Pediatric Dental Dep 25 (CareConnect 1) for you and your spouse as of November 22, 2014, with a monthly premium rate of \$151.84 after giving effect to the maximum advance premium tax credit (APTC) of \$636.16. The notice stated that your coverage would begin January 1, 2015.

On October 22, 2015, NY State of Health (NYSOH) issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether you and your spouse would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2015 or you and your spouse might lose the financial assistance currently being received.

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No updates were made to your account by December 15, 2015.

On December 21, 2015, NYSOH issued an eligibility determination notice stating that you and your spouse were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. The notice also stated that you and your spouse were newly eligible to enroll in a qualified health plan (QHP) at full cost. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame. Financial assistance for you and your spouse ended effective December 31, 2015.

On December 22, 2015, NYSOH issued an enrollment notice confirming the reenrollment of you and your spouse in CareConnect 1 as of December 21, 2015, with a premium of \$816.00 per month. Coverage for you and your spouse under this plan would begin effective January 1, 2016.

On May 29, 2016, NYSOH received your updated application for health insurance.

On May 30, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were newly eligible to receive up to \$464.00 per month in APTC. This eligibility determination was effective July 1, 2016.

On May 31, 2016, NYSOH issued an enrollment notice confirming the enrollment of you and your spouse in CareConnect 1 as of May 30, 2016, with a premium of \$816.00 per month. It appears that none of your APTC was applied to your premium at that time. Coverage for you and your spouse under this plan had begun as of January 1, 2016.

On June 27, 2016, NYSOH received an update to your application for health insurance.

On June 28, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were newly eligible to receive up to \$482.00 per month in APTC and, if you selected a silver-level plan, newly eligible for cost-sharing reductions (CSR). This eligibility determination was effective August 1, 2016. You were eligible for a special enrollment period in which to enroll in a plan.

On June 29, 2016, NYSOH issued an enrollment notice confirming the selection of CareConnect EPO Silver NS INN Dep 25 Acupuncture (CareConnect 2) on June 28, 2016, with a premium of \$250.00 per month, after applying the maximum APTC of \$482.00. The notice stated that coverage for you and your spouse under this plan, as well as the application of your APTC, would begin as of August 1, 2016.

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Also on June 29, 2016, NYSOH issued a disenrollment notice confirming that your June 28, 2016 request to end your coverage under CareConnect 1 had been received. The notice stated that you and your spouse would no longer have coverage with CareConnect 1, effective July 31, 2016.

On August 18, 2016, you spoke to NYSOH's Account Review Unit and appealed the December 21, 2015 eligibility determination insofar as it began your financial assistance eligibility on July 1, 2016 and not January 1, 2016.

On January 11, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: (1) three disenrollment letters issued to you by CareConnect reflecting non-payment of premiums as the reasoning for your disenrollment from CareConnect 1, and (2) a statement writing by you reflecting understanding of issue. The record was to be closed 1 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

That same day, you provided to NYSOH Appeals Unit through your account: (1) your complaint to NYS Dept. of Financial Services regarding your billing issues with CareConnect, (2) a notice issued by CareConnect, dated July 22, 2016, stating that coverage for you and your spouse under CareConnect 1 was terminated effective March 31, 2016 for non-payment of premiums, (3) a notice issued by CareConnect, dated August 12, 2016, stating that coverage for you and your spouse under CareConnect 1 was terminated effective March 31, 2016 for non-payment of premiums, (4) a notice issued by CareConnect, dated October 12, 2016, stating that coverage for you and your spouse under CareConnect 1 was terminated effective April 30, 2016 for non-payment of premiums, and (5) a letter created by you stating the dates and amounts you contend by paid premiums to CareConnect.

Accordingly, the record was closed on January 11, 2017.

## **Findings of Fact**

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

- 1) You testified, and your account reflects, that you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you did not receive any electronic alerts regarding any renewal notice in your NYSOH account telling you that you needed to update your application in order to renew your eligibility.

- 3) You testified that you paid CareConnect \$179.84 for coverage during the months of January, February and March 2016 in response to billing invoices you received from CareConnect. You provided a document to NYSOH Appeals Unit reflecting that you made these payments to CareConnect on January 5, 2016, February 2, 2016, and March 1, 2016, respectively.
- 4) You testified that you did not know that you needed to update your account until you received a large invoice from CareConnect during early April 2016, which reflected that you owed approximately \$2,500.00 because you had no longer qualified for APTC as of December 31, 2015.
- 5) You testified that you had a number of discussions with CareConnect representatives to attempt to resolve the outstanding billing issue. You further testified that during the dispute with CareConnect, you continued to pay \$179.84 for coverage during the months of April and May 2016 in order to keep your account current. On January 11, 2017, you provided a document to NYSOH Appeals Unit reflecting that you made these payments to CareConnect on April 14, 2016 and May 3, 2016, respectively.
- 6) The record reflects that on May 29, 2016, NYSOH received your updated application for health insurance.
- 7) You and your spouse were found eligible for up to \$464.00 per month of APTC beginning July 1, 2016; however, this amount was not applied to your premium for the month of July 2016.
- 8) You testified, and the record reflects, that on June 27, 2016, you revised your application. As a result of this application, you and your spouse were found eligible for up to \$482.00 per month of APTC and CSR, effective August 1, 2016.
- 9) You testified that you and your spouse reenrolled in a different CareConnect plan, CareConnect 2, with coverage beginning August 1, 2016. You further testified, however, that you never made a payment to CareConnect for coverage under the new plan since CareConnect ultimately insisted that you pay an outstanding balance of approximately \$5,000.00 before coverage for you and your spouse would begin.
- 10) You testified, and the record reflects, that you and your spouse were provided an additional special enrollment period as of August 29, 2016, and enrolled in Healthfirst Bronze Leaf Premier, Bronze, NS, INN,

Family Dental, Dep25, Family Vision (Healthfirst), with coverage beginning October 1, 2016.

- 11) You provided letters issued by CareConnect on July 22, 2016 and August 12, 2016 stating that coverage for you and your spouse under CareConnect 1 had been terminated effective March 31, 2016 for non-payment of premiums.
- 12) You also provided a subsequent letter issued by CareConnect on October 12, 2016, stating that coverage for you and your spouse under CareConnect 1 had now been terminated effective April 30, 2016 for non-payment of premiums.
- 13) You testified that you are not only seeking for your APTC of \$464.00 per month you were initially found eligible for on May 29, 2016 to be applied to your CareConnect 1 premiums as of January 1, 2016, but also to have your CareConnect 1 coverage termination date extended from April 30, 2016 to May 30, 2016, since your spouse had incurred significant out-of-pocket costs during the month of May 2016.

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

## **Applicable Law and Regulations**

### Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

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## Electronic Notices

If the individual elects to receive 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)).

## Valid Appeal Requests

An applicant has the right to appeal to the Appeals Unit of NYSOH: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination; and (5) the denial of a request for a special enrollment period (45 CFR § 155.505, 45 CFR § 155.420(d)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you and your spouse were not eligible for advance payments of the premium tax credit until July 1, 2016.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual's projected eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On October 22, 2016, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you qualify for financial help with paying for your health coverage. You were asked to update the information in your account by December 15, 2015 or the financial help you were receiving might end.

Because there was no timely response to this notice, your eligibility for financial assistance was terminated effective December 31, 2015. However, you and your spouse were remained in CareConnect 1 as your health plan, albeit at full cost.

However, you testified and your account reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did

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not receive an electronic alert regarding the renewal notice, which directed you to update the information in your NYSOH account. There is no evidence in your account documenting that any email alert was sent to you regarding the renewal notice or the need to renew your application, or that any notice was sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account, and your eligibility for financial assistance should not have ended.

Therefore, the December 21, 2015 eligibility determination is **RESCINDED**, and your case is **RETURNED** to NYSOH to redetermine your eligibility for financial assistance as of January 1, 2016, based on the information contained in your May 29, 2016 application. NYSOH is also to work with your plan to mitigate any problems related to outstanding premium amounts and gaps in coverage.

## **Decision**

The December 21, 2015 eligibility determination is **RESCINDED**, and your case is **RETURNED** to NYSOH to redetermine your eligibility for financial assistance as of January 1, 2016, based on the information contained in your May 29, 2016 application. NYSOH is also to work with your plan to mitigate any problems related to outstanding premium amounts and gaps in coverage.

**Effective Date of this Decision:** February 9, 2017

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

NSYOH will make a new determination on your eligibility for financial assistance for 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.

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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 December 21, 2015 eligibility determination is RESCINDED, and your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance as of January 1, 2016, based on the information contained in your May 29, 2016 application. NYSOH is also to work with your plan to mitigate of any problems related to outstanding premium amounts and gaps in coverage.

NSYOH will make a new determination on your eligibility for financial assistance for 2016.

### **Legal Authority**

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

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

