



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

Notice of Decision

Decision Date: January 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011844

[REDACTED]

Dear [REDACTED],

On December 2, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's August 25, 2016 eligibility redetermination 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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DEPARTMENT OF HEALTH
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Decision

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011844



Issues

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

Did NY State of Health properly determine that your enrollment in an Essential Plan was terminated effective September 30, 2016?

Did NY State of Health properly determine that you were eligible for advance payments of the premium tax credit up to \$182.00 per month and eligible for cost sharing reductions effective October 1, 2016?

Did the NY State of Health properly determine that your child's enrollment in his Child Health Plus plan was effective October 1, 2016?

Procedural History

On December 25, 2015, NYSOH issued a notice of eligibility redetermination, based on the December 24, 2015 updated application, stating that you were eligible to enroll in the Essential Plan, effective February 1, 2016.

On December 31, 2015, NYSOH issued a notice of enrollment, based on your plan selection on December 30, 2015, stating that you were enrolled in Essential Plan 1 with a \$20.00 monthly premium and that the plan enrollment start date was February 1, 2016.

On July 2, 2016, NYSOH issued a notice that they had received your July 1, 2016 application for health insurance for your child but more information was

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needed in order to make a determination. You were directed to submit proof of income by July 16, 2016.

On July 12, 2016 and August 19, 2016, you submitted documents for proof of income. On August 24, 2016, these documents were verified and your income was adjusted from \$24,000.00 to \$33,280.00.

On August 25, 2016, based on the updated income information contained in the application submitted on that date, NYSOH issued an eligibility redetermination notice stating that you were newly eligible to receive advance premium tax credits (APTC) of \$182.00 per month to help pay for the cost of health coverage and cost sharing reductions (CSR), effective October 1, 2016. That notice stated you qualified to select a health plan outside of the open enrollment period for 2016. You were asked to review your health plan options and confirm your selection no later than October 23, 2016. That same eligibility redetermination notice stated your child was eligible to enroll in Child Health Plus, with a \$9.00 per month premium once you selected a plan with an eligibility effective date of October 1, 2016.

Also on August 25, 2016, NYSOH issued a disenrollment notice stating that your Essential Plan 1 coverage would end effective September 30, 2016. This was because you were no longer eligible to remain enrolled in your current health insurance.

On September 2, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan insofar as it did not begin September 1, 2016. You also appealed the eligibility redetermination of August 25, 2016 insofar as it found you newly eligible for APTC and CSR and not eligible for the Essential Plan effective October 1, 2016.

On September 3, 2016, NYSOH issued a notice of enrollment, based on your plan selection on September 2, 2016, stating that your child was enrolled in a Child Health Plus plan with a plan enrollment date of October 1, 2016. That notice further stated that your health coverage with a qualified health plan would not begin until you picked a plan.

On September 7, 2016, NYSOH issued an eligibility redetermination notice stating that you were granted Aid-to-Continue until a decision is made on your appeal. That notice stated you were eligible, for a limited time, for the Essential Plan with a \$20.00 monthly premium effective October 1, 2016.

Also, on September 7, 2016, NYSOH issued a notice of enrollment, based on the Aid-to-Continue determination, stating that you were enrolled in Essential Plan 1 with \$20.00 monthly premium and that the plan enrollment start date was October 1, 2016.

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On December 2, 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 supports the following findings of fact:

- 1) According to your NYSOH account, you expect to file your 2016 federal tax return as Head of Household with one dependent.
- 2) On July 1, 2016, you updated your NYSOH account and submitted an application that included a request for health insurance for your child.
- 3) On July 2, 2016, NYSOH requested that you submit proof of income so a determination could be made on your child's application for health insurance.
- 4) According to your NYSOH account and your testimony, on July 12, 2016 and on August 19, 2016, you submitted copies of pay stubs and a letter from your employer regarding your rate of pay and hours of work.
- 5) According to your NYSOH account, your proof of income was validated on August 24, 2016 and the yearly income in your application was adjusted from \$24,000.00 to \$33,280.00.
- 6) As a result of this adjustment in your income, on August 25, 2016, NYSOH issued an eligibility redetermination notice finding you newly eligible for APTC of \$182.00 per month to help pay for the cost of health insurance effective October 1, 2016. That same notice found your child eligible for Child Health Plus effective October 1, 2016.
- 7) According to your NYSOH account, you live in New York County, New York.
- 8) You testified that you are withdrawing the appeal on the start date of your child's Child Health Plus plan and, because of the passage of time, the start date of coverage is no longer an issue.
- 9) According to your NYSOH account, you were granted Aid-to-Continue and were reenrolled in your Essential Plan effective October 1, 2016 pending the outcome of this appeal.
- 10) You testified that you want to be redetermined eligible for the Essential Plan and not for APTC/CSR.

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

Applicable Law and Regulations

Essential Plan: Twelve months of Continuous Enrollment

New York State has elected to adopt the Medicaid policy regarding 12 months of continuous enrollment (42 CFR § 600.320(d); New York's Basic Health Plan Blueprint, pp. 8 and 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>). This means that an individual may apply and enroll for coverage at any point in time throughout the year, including outside the open enrollment period and without needing a special enrollment period (NY Social Services Law § 369-gg(4)(d)).

New York State has also elected to redetermine Essential Plan enrollees every 12 months from the effective date of eligibility as long as enrollees are under age 65, are not enrolled in minimum essential coverage, and remain state residents. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12-month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or changes in circumstances (42 CFR § 600.340(f); NY Social Services Law § 369-gg(3) and (4)(d)). Enrollees are required to report changes in circumstances within 30 days, which NYSOH will assess and act upon accordingly (New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

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:

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- 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 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 in 2016 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).

People who use the 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).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

Child Health Plus

The “period of eligibility” for Child Health Plus is “that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information and documentation and ending on the last day of the twelfth month following such date,” unless the CHP premiums are not timely paid or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law § 2510(6)).

“A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage” (42 CFR § 457.340(f)).

The State of New York has provided that a child’s period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month, if the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second following month (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your enrollment in your Essential Plan 1 was terminated effective September 30, 2016.

Initially, it is noted that your enrollment in an Essential Plan took effect on February 1, 2016, which is not in dispute

New York State has elected to redetermine Essential Plan enrollees every 12 months from the effective date of eligibility as long as enrollees are under age 65, not enrolled in minimum essential coverage and remain state residents. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12 month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or change in circumstances.

Generally, if none of the events noted above occur, the enrollee's or enrollees' coverage will continue until the end of the 12 month period from the effective date of the initial eligibility determination or from the effective date of renewal.

The record reflects that you were determined eligible for the Essential Plan, effective February 1, 2016, and were enrolled in an Essential Plan as of that date. The record further reflects that you experienced a change in circumstances in that your household income was adjusted based on income documentation you submitted that was validated by NYSOH on August 24, 2016, resulting in the yearly income in your application being adjusted from \$24,000.00 to \$33,280.00. This change in income constitutes a disqualifying event (change in circumstances) and resulted in NYSOH redetermining you eligible to receive APTC of \$182.00 per month and CSR, effective October 1, 2016.

Therefore, the issue turns to whether NYSOH properly determined that you were eligible for an APTC of up to \$182.00 per month and SCSR as of October 1, 2016.

As stated above, the application that was updated on August 24, 2016 was adjusted to list an annual household income of \$33,280.00 and the eligibility determination relied upon that information.

You are in a two-person household for purposes of this analysis. This is because you expect to file your 2016 income taxes as Head of Household and will claim one dependent on that tax return.

You reside in New York County, where the second lowest cost silver plan available for an individual through NYSOH costs \$368.26 per month.

An annual income of \$33,280.00 is 208.91% of the 2015 FPL for a two-person household. At 208.91% of the FPL, the expected contribution in 2016 to the cost of the health insurance premium is 6.73% of income, or \$186.65 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 (\$368.26 per month) minus your expected contribution (\$186.65 per month), which equals \$181.61 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$182.00 per month in APTC.

The third issue under review is whether you were properly found eligible for CSR. Cost sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$33,280.00 is 208.91% of the applicable FPL, NYSOH correctly found you to be eligible for CSR.

Therefore, the August 25, 2016 and September 3, 2016 eligibility redetermination notices are AFFIRMED in part as they relate to your eligibility for APTC and CSR and your ineligibility for the Essential Plan.

Similarly, the August 25, 2016 disenrollment notice that terminated your Essential Plan coverage effective September 30, 2016 is AFFIRMED.

Since you are currently enrolled in an Essential Plan on an aid-to-continue basis, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance as soon as is feasible.

The fourth and last issue is whether NYSOH properly determine that your child's enrollment in his Child Health Plus plan was effective October 1, 2016.

You testified that you are withdrawing this portion of your appeal because of the passage of time and the start date of your child's Child Health Plus plan is no longer an issue.

Therefore, the portion of your appeal as it relates to the start date of your child's Child Health Plus plan is DISMISSED.

Therefore, the August 25, 2016 and September 3, 2016 eligibility redetermination notices are further AFFIRMED in part as they relate to your child's eligibility for Child Health Plus effective October 1, 2016.

Therefore, the September 3, 2016 enrollment confirmation notice is AFFIRMED in part as it relates to your child's Child Health Plus plan enrollment start date of October 1, 2016.

Decision

The August 25, 2016 and September 3, 2016 eligibility redetermination notices are AFFIRMED in part as they relate to your eligibility for APTC and CSR and your ineligibility for the Essential Plan.

Similarly, the August 25, 2016 disenrollment notice that terminated your Essential Plan coverage effective September 30, 2016 is AFFIRMED.

Since you are currently enrolled in an Essential Plan on an aid-to-continue basis, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance as soon as is feasible.

The portion of your appeal as it relates to the start date of your child's Child Health Plus plan is DISMISSED.

Therefore, the August 25, 2016 and September 3, 2016 eligibility redetermination notices are further AFFIRMED in part as they relate to your child's eligibility for Child Health Plus effective October 1, 2016.

The September 3, 2016 enrollment confirmation notice is AFFIRMED in part as it relates to your child's Child Health Plus plan enrollment start date of October 1, 2016.

Effective Date of this Decision: January 24, 2017

How this Decision Affects Your Eligibility

You were eligible for the Essential Plan as of February 1, 2016 and remained eligible until September 30, 2016, based on a disqualifying event occurring; namely, an increase in income.

You became eligible for APTC of up to \$182.00 per month and eligible for CSR as of October 1, 2016, but remained in your Essential Plan throughout the appeal process on an aid-to continue basis.

Your case is being sent back to NYSOH to redetermine your eligibility for financial assistance as soon as is feasible. In the meantime, your Essential Plan coverage will continue.

Your child is eligible for Child Health Plus effective October 1, 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)).

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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 Think a Portion of Your Appeal Should Not Be Dismissed

If you think your appeal as it relates to your child should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice.

NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing.

If you do not respond to this notice within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Appeal Identification Number

When communicating with NYSOH about this appeal, please reference Appeal Identification Number at the top of this notice.

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

Summary

The August 25, 2016 and September 3, 2016 eligibility redetermination notices are AFFIRMED in part as they relate to your eligibility for APTC and CSR and your ineligibility for the Essential Plan.

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Similarly, the August 25, 2016 disenrollment notice that terminated your Essential Plan coverage effective September 30, 2016 is AFFIRMED.

Since you are currently enrolled in an Essential Plan on an aid-to-continue basis, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance as soon as is feasible.

The portion of your appeal as it relates to the start date of your child's Child Health Plus plan is DISMISSED.

Therefore, the August 25, 2016 and September 3, 2016 eligibility redetermination notices are further AFFIRMED in part as they relate to your child's eligibility for Child Health Plus effective October 1, 2016.

The September 3, 2016 enrollment confirmation notice is AFFIRMED in part as it relates to your child's Child Health Plus plan enrollment start date of October 1, 2016.

You were eligible for the Essential Plan as of February 1, 2016 and remained eligible until September 30, 2016, based on a disqualifying event occurring; namely, an increase in income.

You became eligible for APTC of up to \$182.00 per month and eligible for CSR as of October 1, 2016, but remained in your Essential Plan throughout the appeal process on an aid-to continue basis.

Your case is being sent back to NYSOH to redetermine your eligibility for financial assistance as soon as is feasible. In the meantime, your Essential Plan coverage will continue.

Your child is eligible for Child Health Plus effective October 1, 2016.

Legal Authority

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

We are issuing the dismissal in accordance with 45 CFR § 155.530.

A Copy of this Decision Has Been Provided To:

