



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

Notice of Decision

Decision Date: March 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012503

[REDACTED]

Dear [REDACTED],

On February 15, 2017, your spouse appeared by telephone at a hearing on your appeal of NY State of Health's September 21, 2016 disenrollment 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.

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DEPARTMENT OF HEALTH
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Decision

Decision Date: March 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012503



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 your daughters' enrollment in your family's qualified health plan (QHP) ended effective October 31, 2016?

Procedural History

On December 13, 2015, NYSOH issued an eligibility determination notice stating that you, your spouse, and your three children were eligible to collectively receive up to \$646.00 per month in advance payments of the premium tax credit (APTC), and eligible for cost-sharing reductions, effective January 1, 2016.

Also on December 13, 2015, NYSOH issued an enrollment notice confirming your family's enrollment in a silver-level QHP, effective January 1, 2016. The monthly premium after the application of your family's APTC was \$684.03, and the plan had a \$3,000.00 group deductible.

On September 21, 2016, NYSOH issued a disenrollment notice indicating that your two daughters' coverage in your family's QHP would end effective October 31, 2016.

That same day, NYSOH issued a notice of eligibility determination stating that you, your spouse, and your son were eligible to receive up to \$599.00 per month in APTC, and eligible for cost-sharing reductions, effective November 1, 2016.

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Also on September 21, 2016, NYSOH issued an enrollment notice confirming your, your spouse's, and your son's enrollment in a silver-level QHP. The monthly premium was now \$731.03 after the application of your APTC, and the plan had a \$4,000.00 group deductible.

On October 12, 2016, you contacted the NYSOH Account Review Unit and appealed the date your daughters were disenrolled from your family's QHP, requesting the disenrollment be made effective December 31, 2016.

On February 15, 2017, your spouse appeared at a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the proceeding.

Findings of Fact

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

- 1) Your spouse testified that you and he made a phone call on September 20, 2016 to ask NYSOH what would happen to your premium and deductible if you removed your daughters from your coverage.
- 2) Your spouse testified that the reason for this call was that both of your daughters had recently acquired jobs, and were in the process of applying for health insurance through their respective employers.
- 3) Your spouse testified that the NYSOH representative you both spoke with on the phone stated that they would need to go through the application in order to find out how this change would affect your coverage.
- 4) Your spouse testified that, at the end of the call, you both decided that you wanted to leave your daughters on your QHP coverage, and that you told the NYSOH representative to keep everything the way it was.
- 5) Your spouse testified that the NYSOH representative stated that everything would be deleted, and your plan would stay the same.
- 6) Your spouse testified that, sometime later, you received a notice from NYSOH stating that your daughters were being disenrolled from your plan.
- 7) Your spouse testified that he contacted NYSOH and was told that the phone call records from September 20, 2016 would be pulled to see what happened, but that he never heard back from anyone regarding this.
- 8) Your spouse testified that eventually NYSOH told him that he would have to file an appeal.

- 9) Your spouse testified that your daughters secured coverage through their employers, though he is not sure when that coverage started.
- 10) Your spouse testified that there are no outstanding bills or claims for your daughters from the months of November and December 2016.
- 11) Your spouse testified that you have outstanding medical bills because the removal of your daughters from your coverage caused your family's deductible to go up, after you had already met the previous deductible amount.
- 12) Your spouse testified that the main concern he and you both have is the fact that the deductible went up as a result of the removal of your daughters from your QHP.
- 13) After the hearing, the Hearing Officer requested the telephone recording from your September 20, 2016 conversation with NYSOH and listened to it in its entirety. The following findings of fact are taken from this recording:
 - a. Your September 20, 2016 telephone conversation with NYSOH took place with both you and your spouse on the phone;
 - b. You told the NYSOH representative that you were calling because you had questions because a couple of your children "are out of the household and have their own insurance"
 - c. Your spouse told the NYSOH representative that you needed to have your two daughters removed from your health insurance coverage;
 - d. You clarified that you wanted to remove [REDACTED] and [REDACTED] from your account;
 - e. The NYSOH representative explained that she would have to go through the application to remove them from the account;
 - f. The NYSOH representative asked you why you wanted to remove [REDACTED] and [REDACTED]
 - g. You stated that their current employers were providing coverage;
 - h. Your spouse stated that you also were removing them because they were no longer living with you;
 - i. After the NYSOH representative reran your eligibility, she informed you that you would now be eligible for a \$599.00 tax credit;
 - j. The NYSOH representative asked you whether you wanted to stay with your Oscar QHP, and you expressed concern about the increase in cost, and indicated that you did not understand why it would cost more money if there were fewer people on your plan;
 - k. The NYSOH representative first told you that the changes would not go into effect until January 1, 2017, but then said that she could not see when your new premium would take effect without confirming your plan selection;

- l. You and your spouse stated that you wanted to call [REDACTED] and do some research to follow up;
- m. The NYSOH representative told you that she would not confirm and check out the plan;
- n. The NYSOH representative informed you that the changes were done regarding removing your daughters from your application and coverage, but that she would not confirm and check out the plan, and that you could call back or log in to your NYSOH account once you had talked to [REDACTED]

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

Applicable Law and Regulations

Advance Payments of Premium Tax Credit

APTC are generally available to a person who is eligible to enroll in 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:

- 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

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requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2015 FPL, which is \$20,090.00 for a three-person household (80 Federal Register 3236, 3237).

For annual household income in the range of at least 300% but less than 400% of the 2015 FPL, the expected contribution is 9.66% 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).

Household Composition

For purposes of APTC and cost-sharing reductions (CSR), the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

Responsibility to Report Changes

Individuals enrolled in coverage in a QHP through NYSOH are required to report any changes that affect eligibility within 30 days of such change (45 CFR § 155.330(b)(1)).

Termination of a Qualified Health Plan

NYSOH must permit an enrollee to terminate his or her coverage with a qualified health plan coverage, with appropriate notice to the NYSOH or qualified health plan (45 CFR § 155.430(b)(1)(i)).

For enrollee-initiated terminations, the last day of coverage is either:

- 1) The termination date specified by the enrollee, if the enrollee provides reasonable notice (at least 14 days before the requested termination date);
- 2) Fourteen days after the enrollee requests the termination, if they do not provide reasonable notice; or
- 3) On a date on or after the date the enrollee requests the termination, if the enrollee's qualified health plan issuer and the enrollee agree to such a date

(45 CFR § 155.430(d)(2)(i)-(iii)).

NYSOH permits a qualified health plan to terminate an individual's coverage if (1) the enrollee is no longer eligible for coverage or (2) non-payment of the premiums by the enrollee (45 CFR § 155.430(b)(2)(i)-(ii)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your daughters' enrollment in your family's QHP ended, effective October 31, 2016.

On December 13, 2015, NYSOH issued an eligibility determination notice stating that you, your spouse, and your three children were eligible to receive up to \$646.00 per month in APTC, and eligible for cost-sharing reductions, effective January 1, 2016. You subsequently enrolled your family into a QHP.

On September 20, 2016, your household application for financial assistance with health insurance was rerun, and on September 21, 2016, NYSOH issue a disenrollment notice indicating your daughters would be disenrolled from your family's QHP, effective October 31, 2016. Your spouse testified that he is looking for your daughters to be re-enrolled into your family's plan for the months of November and December 2016 because their disenrollment caused your family's deductible to go up as of November 1, 2016.

At the hearing, your spouse testified that you both had a conversation with a representative from NYSOH on September 20, 2016. He testified that you were calling NYSOH that day to ask a question about what would happen if you removed your daughters from your insurance coverage. He testified that your daughters were in the process of applying for coverage through their new employers, so you were contacting NYSOH to see what would happen if you took them off of your account. Your spouse testified that the NYSOH representative told you both that she would have to run the application, and, when she did, you did not want to make any changes, so you asked her to delete everything and not send it through. Your spouse testified that, at the end of the call, you and he both believed that everything was going to remain the same.

Your spouse testified that, when you received a notice stating that your daughters were being disenrolled from your plan, and another notice showing that your tax credit had decreased and your deductible had increased, you contacted NYSOH to tell them that you never wanted to make any changes to your account, and that you wanted your previous coverage reinstated.

After the hearing, the Hearing Officer listened to the recording of your September 20, 2016 phone call with NYSOH in its entirety. At the outset of the call, you stated to the NYSOH representative that you had some questions because "a couple of children are out of the household and have their own insurance." Your spouse clarified that you wanted to take your daughters off of your health

insurance. When the NYSOH representative began to go through the process of removing your daughters and asked you why you wanted to remove them, you stated that they now had coverage through their employers, and your spouse stated that they were no longer living with you. The NYSOH representative ran your eligibility and informed you that your tax credit would decrease. Though the representative did not clearly state this, the decrease in your APTC happened because the number of people in your household went from five to three.

After the NYSOH representative informed you that the changes were going to cause your monthly premium to increase, you and your spouse began to state that you no longer wanted to make the changes. Though you may have come away from the phone call with the understanding that the NYSOH representative deleted the changes, the NYSOH representative stated to you that she was not going to confirm and check out your plan selection, but that the changes with regard to removing your daughters from your account had already been made.

Therefore, it is determined that the NYSOH representative's actions, in removing your daughters from your application, were proper, based on the information you provided at the beginning of the phone call: that you needed to remove your daughters because they were getting their own coverage, and that your daughters were not living in your household anymore.

Moreover, enrollees are required to report changes in their household that could affect their eligibility for financial assistance within thirty days. Though you may have decided that reporting that your daughters were no longer living with you was not financially advantageous and that you therefore no longer wanted NYSOH to act on that information, you are required to report such changes, and NYSOH is required to act on them so that your eligibility for financial assistance can be determined in an accurate manner under the law.

Therefore, it is determined that because you reported that your daughters were no longer in your household and had their own insurance coverage, NYSOH properly made changes to your account based on this information.

Therefore, the September 21, 2016 disenrollment notice is AFFIRMED.

Decision

The September 21, 2016 disenrollment notice is AFFIRMED.

Effective Date of this Decision: March 20, 2017

How this Decision Affects Your Eligibility

This decision does not change your daughters' disenrollment date. Your daughters' enrollment in your family's QHP ended as of October 31, 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.

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

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Summary

The September 21, 2016 disenrollment notice is AFFIRMED.

This decision does not change your daughters' disenrollment date. Your daughters' enrollment in your family's QHP ended as of October 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:

