



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

Notice of Decision

Decision Date: February 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011944

[REDACTED]

Dear [REDACTED]

On January 19, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 17, 2016 eligibility determination and enrollment confirmation notices, and the August 19, 2016 enrollment confirmation 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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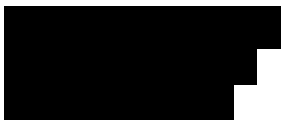


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Issues

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

Did NY State of Health (NYSOH) properly determine your eligibility for advance payments of the premium tax credit ended effective September 1, 2016?

Did NYSOH properly determine the bronze level qualified health plan you and your spouse enrolled in was effective October 1, 2016?

Procedural History

On April 18, 2016, NYSOH received your updated application for health insurance.

On April 19, 2016, NYSOH issued a notice of eligibility determination stating you and your spouse were eligible to receive up to \$416.00 in advance payments of the premium tax credit (APTC), as well as cost-sharing reductions if you enrolled in a silver level qualified health plan, both effective June 1, 2016.

Also on April 19, 2016, NYSOH issued a notice of enrollment confirmation stating you and your spouse were enrolled in a silver-level qualified health plan with a \$449.79 monthly premium after applying APTC.

On August 16, 2016, NYSOH received your updated application for health insurance.

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).

On August 17, 2016, NYSOH issued an eligibility determination notice, based on your August 16, 2016 updated application, stating you were newly eligible to purchase a qualified health plan at full cost, effective October 1, 2016. The notice stated that you did not qualify for Medicaid, Child Health Plus, the Essential Plan or APTC because the household income amount provided in the application, \$130,504.00, was above the allowable income limits for these programs.

Also on August 17, 2016, NYSOH issued a notice of enrollment confirmation stating you and your spouse were enrolled in a silver level qualified health plan with a \$865.79 monthly premium and no APTC applied.

On August 19, 2016, NYSOH issued a notice of enrollment confirmation, based on your August 16, 2016 plan selection, stating you and your spouse were enrolled in a bronze level qualified health plan with a \$593.45 monthly premium and no APTC applied, effective October 1, 2016.

Also on August 19, 2016, NYSOH issued two disenrollment notices stating your enrollment in the silver level qualified health plan and dental plans were terminated, effective September 30, 2016, pursuant to your August 18, 2016 request.

On September 9, 2016, you spoke to NYSOH's Account Review Unit and appealed the end date of your APTC for the month of September 2016.

On January 19, 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 are in a four-person household, including you, your spouse, and your two children.
- 2) You updated your NYSOH account online on August 16, 2016, increasing your household income amount to \$130,504.00.
- 3) NYSOH's records reflects the APTC you and your spouse were formerly receiving was revoked following the August 16, 2016 update to your account.
- 4) You testified that you and your spouse enrolled in a less expensive bronze level qualified health plan the same day, because you were aware you were no longer eligible for APTC.

- 5) This enrollment in the bronze level qualified health plan was effective October 1, 2016.
- 6) On August 18, 2016, you requested to cancel enrollment in the silver-level qualified health plan for you and your spouse, and your enrollment ended on September 30, 2016.
- 7) You testified APTC was not applied to your September premium payment and, as a result, you and your spouse were required to pay the full premium for you silver-level qualified health plan.
- 8) You testified you are seeking reinstatement of your APTC for the month of September 2016 because you updated your account and selected a plan the same day and, thus, the APTC should not be revoked prior to the start of the new plan.
- 9) Your application indicates you intend to file your 2016 tax return with a tax filing status of married filing jointly.
- 10) Your application indicates you live in Livingston County.

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

Applicable Law and Regulations

Eligibility for Advance Payments of the Premium Tax Credit

APTC are generally available to a person who is eligible to enroll in a qualified health plan 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 qualified health plan, 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)).

In an analysis of APTC eligibility, the determination is based on the federal poverty level (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 \$24,250.00 for a four-person household (80 Federal Register 3236, 3237).

Redetermination During a Benefit Year

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the month following the date of the notice (45 CFR § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

When an eligibility redetermination results in a change in the amount of 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)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your eligibility for APTC ended effective August 31, 2016.

The record reflects, you and your spouse enrolled in a silver-level qualified health plan with APTC, effective January 1, 2016. You testified, and the record reflects, you updated your NYSOH account online on August 16, 2016, increasing your household income amount to \$130,504.00. As a result of the update, you and your spouse were determined eligible to purchase a qualified health plan at full cost, effective October 1, 2016; you and your spouse were no longer eligible to receive APTC.

APTC are only available to applicants with household income between 138% and 400% of the applicable FPL. The record reflects you are in a 4-person household. The applicable FPL for a 4-person household is \$24,250.00. According to your August 16, 2016 updated application, your household income is \$130,504.00 which is 538.16% of the applicable FPL. As your household income is over 400% of the applicable FPL, NYSOH properly determined you and your spouse were not eligible to receive APTC.

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You testified APTC was not applied to your September premium payment and, as a result, you and your spouse were required to pay the full premium for your silver level qualified health plan.

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the month following the date of the notice, regardless of when during the month the changes occur. In contrast, changes in plans go into effect on the first day of the following month or the first day of the second following month, depending on when the selection changes.

In the present case, the notice advising you of the change in your eligibility for APTC was dated August 17, 2016. Therefore, the change was effective the first day of the month following the date of the notice; that is, September 1, 2016. Accordingly, NYSOH properly determined your eligibility for APTC ended on September 1, 2016.

Therefore, the August 17, 2016 eligibility determination, to the extent it found you and your spouse eligible to purchase a qualified health plan at full cost and ineligible to receive APTC, is correct and is AFFIRMED.

Additionally, the August 17, 2016 notice of enrollment confirmation stating you and your spouse were enrolled in a silver level qualified health plan with a \$865.79 monthly premium and no APTC applied, is correct and is AFFIRMED.

The second issue under review is whether NYSOH properly determined the bronze level qualified health plan you and your spouse enrolled in was effective October 1, 2016.

You testified, and the record reflects, on August 16, 2016, the same day you updated your account, you enrolled you and your spouse into a less expensive bronze level qualified health plan with an October 1, 2016 start date. Thereafter, on August 18, 2016, you requested to cancel the silver level qualified health plan you and your spouse were enrolled and the plan was terminated, effective September 30, 2016. At the hearing, you contended your APTC should not have ended before your new bronze level qualified health plan started.

As noted above, the end date for APTC and the start date for a qualified health plan are determined by different standards. A change in eligibility for APTC is effective as of the first day of the month following the date of the notice; in this case, September 1, 2016.

However, qualified health plans selected from the sixteenth to the last day of any month are effective the first day of the second following month. You selected

your bronze level qualified health plan on August 16, 2016. Therefore, the plan was effective the first day of the second following month; that is, October 1, 2016.

Thus, the August 19, 2016 notice of enrollment confirmation, stating you and your spouse were enrolled in a bronze level qualified health plan, effective October 1, 2016, is correct and is AFFIRMED.

Decision

The August 17, 2016 eligibility determination, August 17, 2016 notice of enrollment confirmation, and August 19, 2016 notice of enrollment confirmation are correct and are AFFIRMED.

Effective Date of this Decision: February 24, 2017

How this Decision Affects Your Eligibility

This decision does not change your eligibility, and the APTC you and your spouse were receiving properly ended September 1, 2016.

The bronze level qualified health plan you and your spouse enrolled in was effective October 1, 2016.

If in fact you are entitled to more APTC based on your yearly household income, this amount can be reconciled at the time you file your tax return.

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 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).

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 August 17, 2016 eligibility determination, August 17, 2016 notice of enrollment confirmation, and August 19, 2016 notice of enrollment confirmation are **AFFIRMED**.

This decision does not change your eligibility, and the APTC you and your spouse were receiving properly ended September 1, 2016.

The bronze level qualified health plan you and your spouse enrolled in was effective October 1, 2016.

If in fact you are entitled to more APTC based on your yearly household income, this amount can be reconciled at the time you file your tax return.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

