



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

## Notice of Decision

Decision Date: March 15, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012167

[REDACTED]

Dear [REDACTED],

On January 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 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 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

Decision Date: March 15, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012167



## Issue

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

Did NYSOH properly determine that you and your spouse's eligibility for advance payments of the premium tax credit ended effective October 1, 2016?

## Procedural History

On March 28, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were conditionally eligible to receive up to \$230.00 in advance payments of the premium tax credit (APTC), effective May 1, 2016. The notice further directed you to provide documentation confirming your household income before June 26, 2016.

On March 29, 2016, NYSOH issued a notice confirming your and your spouse's enrollment in a gold-level qualified health plan with a plan enrollment date of January 1, 2016 and APTC reductions, effective April 1, 2016.

On May 10, 2016, you uploaded to your NYSOH account income information for you and your spouse (see Documents [REDACTED] and [REDACTED]).

On September 18, 2016, NYSOH issued an eligibility redetermination notice stating that you and your spouse were newly eligible to purchase a qualified health plan at full cost. The notice stated that you were not eligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective November 1, 2016.

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Also on September 18, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a gold-level qualified health plan with \$0.00 of APTC applied to your premium.

On September 22, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your and your spouse's APTC.

On January 18, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing closed at the end of the hearing.

## **Findings of Fact**

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

- 1) You testified, and your NYSOH account confirms, that you receive all of your notices from NYSOH by electronic mail.
- 2) According to your March 28, 2016 application, you expected to file your federal income tax return, with the tax status of married filing jointly and not claim any dependents on that tax return.
- 3) According to your March 28, 2016 application, you attested to an annual household income of \$63,000.00 consisting of \$36,000.00 in wages you earned and \$27,000.00 in wages your spouse earned. You testified that these amounts were accurate.
- 4) You testified that you and your spouse work for the same employer. You testified that you are both paid on a per diem basis.
- 5) According to your NYSOH account and your testimony, on May 10, 2016 you uploaded to your account the following income documents:

For yourself:

- 1) Pay stub dated 2/09/16, gross pay \$1,280.00
- 2) Pay stub dated 2/17/16, gross pay \$1,280.00
- 3) Pay stub dated 2/23/16, gross pay \$1,280.00
- 4) Pay stub dated 3/02/16, gross pay \$1,280.00
- 5) Pay stub dated 3/08/16, gross pay \$1,280.00

For your spouse:

- 1) Pay stub dated 2/09/16, gross pay \$1,200.00
- 2) Pay stub dated 2/17/16, gross pay \$ 960.00
- 3) Pay stub dated 2/23/16, gross pay \$ 720.00

- 4) Pay stub dated 3/02/16, gross pay \$1,200.00
- 5) Pay stub dated 3/08/16, gross pay \$ 960.00
  
- 6) According to your account, NYSOH did not send any notices stating that the documentation that you had submitted was insufficient.
  
- 7) Your NYSOH account indicates that on September 17, 2016, your application was run and you and your spouse were found no longer eligible for APTC as of November 1, 2016.
  
- 8) You testified that you are seeking reinstatement of your APTC as of October 1, 2016.

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

## **Applicable Law and Regulations**

### Verification of 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)).

An applicant is required to attest to their household's projected annual income for purposes of determining their eligibility for APTC (45 CFR § 155.320(c)(3)(ii)(B)). For all individual's whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security in order to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant in order to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the

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attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

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 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your eligibility for advance payments of the premium tax credit ended effective October 1, 2016.

You filed an application for health insurance on March 28, 2016 attesting to a household income of \$63,000.00 consisting of \$36,000.00 in wages you earned and \$27,000.00 in wages your spouse earned. You testified that these amounts were accurate.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her household's projected annual income. For individuals seeking APTC, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency. Valid documentation for proof of wages and salary include paycheck stubs or a letter from an employer on company letterhead, signed and dated, which states gross earnings for the last four weeks.

In the eligibility determination issued on March 29, 2016, you were advised that your and your spouse's eligibility for APTC was only conditional, and that you needed to confirm your household's income before June 26, 2016.

Your NYSOH account indicates that you did submit your income documentation to NYSOH on May 10, 2016. (see Documents [REDACTED] and [REDACTED]) The documentation that you submitted on this date for you and your spouse contained sufficient information to permit NYSOH to conduct an eligibility determination.

However, NYSOH never reviewed the documentation you submitted and no additional notices were issued by NYSOH requesting further income documentation from you or your spouse.

Based on your testimony and the record, it is concluded that you timely submitted sufficient documentation to confirm your income, and that NYSOH erred in never reviewing the documentation.

Since you timely submitted sufficient income documentation as directed, the September 18, 2016 eligibility determination stating that you are no longer eligible for APTC because you failed to submit income documentation is **RESCINDED**.

## **Decision**

The September 18, 2016 eligibility determination is **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your APTC as of October 1, 2016.

**Effective Date of this Decision:** March 15, 2017

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

NYSOH erred in terminating your APTC effective October 1, 2016 due to insufficient documentation.

Your case is being sent back to NYSOH to reinstate your APTC as of 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.

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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 September 18, 2016 notice of eligibility determination is RESCINDED.

NYSOH erred in terminating your APTC effective October 1, 2016 due to insufficient information.

Your case is RETURNED to NYSOH to reinstate your APTC as of October 1, 2016.

### **Legal Authority**

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



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

