



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

## Notice of Decision

Decision Date: February 21, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012235

[REDACTED]

Dear [REDACTED]

On January 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 19, 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 NY State of Health 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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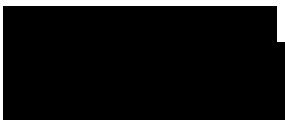


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## Decision

Decision Date: February 21, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012235



## 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 eligibility for advance payments of the premium tax credit ended effective October 1, 2016?

## Procedural History

On April 17, 2016, NYSOH issued a notice of eligibility determination stating that you were newly conditionally eligible to receive up to \$117.00 in advance payments of the premium tax credit (APTC) and newly conditionally eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective June 1, 2016. The notice further directed you to provide documentation confirming your income before July 15, 2016.

On April 17, 2016, NYSOH issued a notice confirming your enrollment in silver level qualified health plan with APTC and cost-sharing reductions, effective May 1, 2016.

On September 19, 2016, NYSOH issued an eligibility redetermination notice stating that you were newly eligible to purchase a qualified health plan at full cost. The notice stated that you were not eligible to receive APTC or cost-sharing reductions because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective November 1, 2016.

On September 19, 2016 NYSOH issued an enrollment confirmation notice stating that you were enrolled in a qualified health plan with \$0.00 of APTC applied to your premium.

On September 26, 2016 you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC.

A telephone hearing was scheduled for January 17, 2017 at 2:00 pm.

A Hearing Officer from NYSOH's Appeals Unit called you on January 17, 2017. During the call you testified you did not receive the notice of hearing as your address had changed. The Hearing Officer granted an adjournment, and a new notice of hearing was issued on January 19, 2017.

On February 14, 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 proceeding.

## **Findings of Fact**

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

- 1) You testified, and your account indicates, that you receive all of your notices from NYSOH by regular mail.
- 2) You testified that you did not receive any notices stating that your eligibility was only conditional and that you needed to provide documentation of your household's income.
- 3) You testified that the April 17, 2016 address listed on the notice was correct at the time it was issued in April, 2016.
- 4) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable except a notice dated November 2, 2016 confirming your enrollment in a full cost Silver level qualified health plan effective May 1, 2016.
- 5) Your NYSOH indicates only your income documentation was received on April 27, 2016.
- 6) The record shows your income documents were uploaded by your application counselor on April 27, 2016.
- 7) Your income documentation was invalidated on April 28, 2016 as your spouse needed to provide four weeks of current paystubs.

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- 8) A letter from NYSOH was issued to your address on April 29, 2016 stating more proof of income was required for your spouse in order to confirm your eligibility for health insurance. The address on the letter was the same address as the April 17, 2016 notice. The notice was not returned as undelivered to NYSOH.
- 9) No further income documentation was received by NYSOH other than the April 26, 2016 paystubs.
- 10) Your NYSOH account indicates that on September 18, 2016 your application was run and you were found no longer eligible for APTC as of October 1, 2016.
- 11) You updated the income information in your NYSOH account on November 25, 2016.
- 12) You testified that you are seeking reinstatement of your APTC as of October 1, 2016, or to receive a refund of your increased premium payments.

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 individuals 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)).

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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 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 APTC ended effective October 1, 2016.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to their 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.

In the eligibility determination issued on April 17, 2016, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income before July 15, 2016.

You testified that you did not receive any notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. You testified that the April 17, 2016 address listed on the notice was correct at the time it was issued in April, 2016.

No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable except a notice dated November 2, 2016

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confirming your enrollment in a full cost Silver level qualified health plan effective May 1, 2016.

Therefore, NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

Your NYSOH account indicates that you did submit your income documentation to NYSOH on April 27, 2016. The documents were uploaded by your application counselor. However, this documentation was invalidated on April 28, 2016 because it was missing the income documentation for your spouse.

A letter was issued by NYSOH to your address on April 29, 2016 stating more proof of income was required for your spouse in order to confirm your eligibility for health insurance. The address on the letter was the same address as the April 17, 2016 notice and was not returned as undelivered to NYSOH. No further income documents were received by NYSOH after the delivery of this letter.

When NYSOH reran your eligibility on September 18, 2016 it did so without access to your completed income documentation.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation. Any changes in APTC are to be made effective the month following the eligibility redetermination notice.

Accordingly, your eligibility for APTC should have ended as of October 1, 2016, the month following the September 19, 2016 eligibility redetermination.

Therefore, the September 19, 2016 eligibility redetermination notice is MODIFIED to state 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, effective October 1, 2016.

## **Decision**

The September 19, 2016 notice of eligibility determination is MODIFIED to state 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, effective October 1, 2016.

**Effective Date of this Decision:** February 21, 2017

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

NYSOH properly found you not eligible to receive APTC effective October 1, 2016 because you did not provide documentation of your household's income.

## **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:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

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The September 19, 2016 notice of eligibility determination is MODIFIED to state 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, effective October 1, 2016.

NYSOH properly found you not eligible to receive APTC effective October 1, 2016 because you did not provide documentation of your household's income.

### **Legal Authority**

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

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

