



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

## Notice of Decision

Decision Date: February 1, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012287

[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 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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## Decision

Decision Date: February 1, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012287



## 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 you and your spouse's eligibility for advance payments of the premium tax credit ended effective November 1, 2016?

## Procedural History

On December 15, 2015, NYSOH issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to receive up to \$402.00 in advance payments of the premium tax credit (APTC) and ineligible to receive cost-sharing reductions, effective January 1, 2016. The notice further directed you to provide documentation confirming your income before March 13, 2016.

On December 22, 2015, NYSOH issued a notice confirming your and your spouse's enrollment in a qualified health plan (QHP) with APTC, effective January 1, 2016.

On September 18, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a QHP at full cost, effective November 1, 2016. The notice stated that you and your spouse 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.

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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 QHP with \$0.00 of APTC applied to your and your spouse's premium, effective February 1, 2016.

On September 27, 2016, you updated your application for financial assistance.

On September 28, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a QHP with \$381.00 of APTC applied to your and your spouse's premium, effective January 1, 2016.

Also on September 28, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your and your spouse's APTC for the months of January 2016 through December 2016.

On September 29, 2016, you again updated your application for financial assistance.

Also on September 29, 2016, you submitted proof of your income and your spouse's income, which consists of letters from each of your employers [REDACTED]. NYSOH verified this documentation on October 11, 2016.

On September 30, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a QHP with \$381.00 of APTC applied to your monthly premium, effective February 1, 2016.

On October 7, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to receive up to \$381.00 in APTC, effective November 1, 2016. That notice also stated that you and your spouse did not qualify for a special enrollment period.

On October 8, 2016, NYSOH issued a notice of eligibility determination, based on the September 29, 2016 application, stating that you and your spouse were eligible to receive up to \$399.00 in APTC, effective November 1, 2016. That notice also stated that you and your spouse did not qualify for a special enrollment period.

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 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 and your testimony, you and your spouse receive all of your notices from NYSOH by regular mail.
- 2) You testified that you did not receive any notices stating that you and your spouse's eligibility was only conditional and that you needed to provide documentation of your household's income.
- 3) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 4) 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.
- 5) You testified that you did not know that you and your spouse needed to submit documentation of income until you received a large bill from your insurance company in the amount of approximately \$4,000.00.
- 6) You testified that your and your spouse's APTC was retroactively terminated back to January 1, 2016 and that your QHP is now directing you and your spouse to pay the full premium for coverage dating back to January 1, 2016. Your spouse took out a loan against his retirement account to cover the bill so that you and your spouse did not experience a backdated loss of coverage for non-payment.
- 7) According to your NYSOH account, you updated the income information in your NYSOH account on September 27, 2016 and September 29, 2016. Also on September 29, 2016, you submitted proof of your income and your spouse's income, which consists of letters from each of your employers [REDACTED] [REDACTED]). This documentation was verified by NYSOH on October 11, 2016.
- 8) According to your NYSOH account, when you updated your NYSOH account on September 27, 2016 and September 29, 2016 you were found eligible as of November 1, 2016 for APTC in a monthly amount of up to \$381.00 and \$399.00 APTC, respectively. Both eligibility determination notices stated that you and your spouse do not qualify for a special enrollment period.
- 9) You testified that you and your spouse are seeking reinstatement of your shared APTC as of January 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 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)).

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)).

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 first issue under review is whether NYSOH properly determined that your and your spouse's eligibility for APTC ended effective November 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

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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 notice issued on December 15, 2015, you and your spouse were advised that your eligibilities for APTC was only conditional, and that you needed to confirm your household's income before March 13, 2016.

You testified that you did not receive any notice from NYSOH telling you that you and your spouse 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. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable. As such, the December 15, 2015 eligibility determination notice is deemed to have been properly sent by NYSOH.

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

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 date following the eligibility redetermination notice.

Accordingly, your and your spouse's eligibility for APTC should have ended as of October 1, 2016, the month following the September 18, 2016 eligibility redetermination.

Therefore, the September 18, 2016 eligibility redetermination notice is MODIFIED to state that your and your spouse's monthly APTC ended as of October 1, 2016.

During the hearing you testified that your and your spouse's APTC was retroactively terminated back to January 1, 2016 and that your QHP directed you and your spouse to pay the full premium for coverage dating back to January 1, 2016. In order to avoid a backdated loss of coverage for non-payment of premium, your spouse took out a loan against his retirement account to cover the entire bill.

Any changes in APTC are to be made effective the date following the eligibility determination notice. Accordingly, your and your spouse's APTC should have only been affected as of October 1, 2016, the month following the September 18, 2016 eligibility redetermination. NYSOH Appeals Unit does not have authority to hear issues involving QHP billing and payments. Therefore, your case is RETURNED to Department of Health's Plan Management Unit in order to investigate whether or not your plan is incorrectly billing you and your spouse for months when you and your spouse should have been receiving APTC.

## **Decision**

The September 18, 2016 eligibility redetermination notice is MODIFIED to state that your and your spouse's monthly APTC ended as of October 1, 2016.

Your case is RETURNED to Department of Health's Plan Management Unit in order to investigate whether or not your plan is incorrectly billing you and your spouse for months when you and your spouse should have been receiving APTC.

**Effective Date of this Decision:** February 1, 2017

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

NYSOH properly found you and your spouse ineligible to receive APTC, as stated in the September 18, 2016 notice, because you did not timely provide documentation of your household's income.

NYSOH improperly found that your and your spouse's redetermination for your APTC end date was effective November 1, 2016.

Your and your spouse's eligibility for APTC is being modified to state it ended October 1, 2016.

Your case is also being sent back so that Department of Health's Plan Management Unit can investigate your claim that your and your spouse's QHP retroactively terminated your APTC. You will be notified separately of the outcome of that investigation.



## **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 QHPs, 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 eligibility redetermination notice is MODIFIED to state that your and your spouse's monthly APTC ended as of October 1, 2016.

Your case is RETURNED to Department of Health's Plan Management Unit in order to investigate whether or not your plan is incorrectly billing you and your spouse for months when you and your spouse should have been receiving APTC.

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Your and your spouse's eligibility for APTC is being modified to state it ended October 1, 2016.

Your case is also being sent back so that Department of Health's Plan Management Unit can investigate your claim that your and your spouse's QHP retroactively terminated your APTC. You will be notified separately of the outcome of that investigation.

## **Legal Authority**

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

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

