



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

## Notice of Decision

Decision Date: March 6, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012288

[REDACTED]

Dear [REDACTED]

On January 23, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 2016 eligibility determination and enrollment confirmation notices, as well as the September 29, 2016 enrollment confirmation notice and the October 8, 2016 notice of eligibility determination.

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: March 6, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012288

[REDACTED]

## Issues

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

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

Did NYSOH properly determine your eligibility for advance payments of the premium tax credit was effective no earlier October 1, 2016?

## Procedural History

On December 8, 2015, NYSOH issued a notice of eligibility determination stating you, your spouse, and your child (your family) were conditionally eligible, effective January 1, 2016, to receive up to \$805.00 per month in advance payments of the premium tax credit (APTC) and, if you enrolled in a silver level qualified health plan, conditionally eligible to receive cost-sharing reductions. The notice directed you to provide documentation confirming your family's income before March 6, 2016, or you might lose your eligibility to enroll in coverage or to receive financial assistance.

Also on December 8, 2015, NYSOH issued a notice confirming your family's enrollment in a qualified health plan with APTC and cost-sharing reductions, effective January 1, 2016.

No documents were received by March 6, 2016.

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On September 18, 2016, NYSOH issued an eligibility determination notice stating your family was newly eligible to purchase a qualified health plan at full cost. The notice stated your family was 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.

Also on September 18, 2016, NYSOH issued an enrollment confirmation notice stating your family was enrolled in a qualified health plan with \$0.00 of APTC applied to your premium.

On September 28, 2016, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating your family was conditionally eligible to receive up to \$805.00 in APTC and, if you enrolled in a silver level qualified health plan, conditionally eligible to receive cost-sharing reductions effective November 1, 2016.

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

On September 29, 2016, NYSOH issued a notice of enrollment confirmation stating your family was enrolled in a qualified health plan, with APTC and cost-sharing reductions applied effective October 1, 2016.

On October 8, 2016, NYSOH issued a notice of eligibility determination, based on the September 28, 2016 redetermination, stating your family was conditionally eligible to receive up to \$805.00 in APTC and conditionally eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective November 1, 2016. The notice directed you to provide documentation confirming your family's income before December 27, 2016.

On January 23, 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.

On January 21, 2017, NYSOH issued a 1095-A tax form, which indicated you had received APTC all 12 months of 2016.

## **Findings of Fact**

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

- 1) Your account indicates you receive all of your notices from NYSOH by regular mail.

- 2) You testified you received the December 8, 2015 notices stating your family's eligibility was only conditional and directing you to provide documentation of your household's income by March 6, 2016.
- 3) You testified you are not sure if documentation evidencing your household income was submitted to NYSOH. You further testified you think you gave income documentation, including paystubs and a tax return, to your broker who should have uploaded the documentation to your account.
- 4) According to your NYSOH account, no documentation of income was ever received by NYSOH.
- 5) Your NYSOH account indicates your eligibility was redetermined on September 17, 2016 and your family was found no longer eligible for APTC.
- 6) You testified you learned your APTC was revoked when you receive a bill from your health plan for the full monthly premium for September 2016.
- 7) You testified you thereafter contacted you broker who submitted an updated application on your behalf on September 28, 2016.
- 8) Following the update, a notice of enrollment was issued that indicated that the resumption of APTC would take effect on October 1, 2016. However, an eligibility determination issued on October 8, 2016 indicated that APTC would resume on November 1, 2016.
- 9) You testified that you are seeking reinstatement of your APTC for the month of September 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

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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)).

### 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 your family's eligibility for APTC ended, effective September 1, 2016 or otherwise.

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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 December 8, 2015, you were advised your family's eligibility for APTC was only conditional, and you were directed to confirm your household's income before March 6, 2016.

You testified you received this notice. Accordingly, the record reflects NYSOH provided you with adequate notice of an inconsistency in your account and that documentation was needed to confirm the income listed in your application.

You further testified you think you gave income documentation, including paystubs and a tax return, to your broker who should have uploaded the documentation to your account. However, according to your NYSOH account, no documentation of income was ever received by NYSOH.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine eligibility based on the information available from the data sources unless the applicant demonstrates they are unable to provide the required documentation. Pursuant to the above cited regulations, any changes in APTC are to be made effective the first day of the month *immediately* following the eligibility redetermination notice, regardless of when during the month the eligibility changes.

It is noted that changes in enrollment, however, go into effect the first day of the *second* month following the change, if that change took place after the 15<sup>th</sup> of the month.

Accordingly, as NYSOH was unable to verify the income information listed in your application, your eligibility for APTC should have ended as of October 1, 2016, the first day of the month following the September 18, 2016 eligibility redetermination. You testified you were required to pay the full premium payment to the health plan for the month of September 2016.

Therefore, the September 18, 2016 eligibility determination notice is MODIFIED to state 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.

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Your case is RETURNED to NYSOH to ensure that your family was given the appropriate APTC for the month of September 2016.

The second issue is whether NYSOH properly determined your family's eligibility for APTC was effective October 1, 2016.

On September 28, 2016, an updated application for financial assistance was submitted on your behalf. On September 29, 2016, an enrollment confirmation notice was issued indicating your family was enrolled in a qualified health plan with \$805.00 in monthly APTC applied to your monthly premium, effective October 1, 2016.

As stated above, any changes in APTC are to be made effective the first day of the month following the eligibility redetermination notice.

Since you updated your application on September 28, 2016, the reinstatement of APTC should have been made effective as of October 1, 2016, and there should have been no break in your receipt of APTC.

Therefore, NYSOH's September 29, 2016 enrollment confirmation notice is correct and is AFFIRMED.

## **Decision**

The September 18, 2016 eligibility determination notice is MODIFIED to affirmatively state that you were not eligible to receive APTC, effective October 1, 2016.

Your case is RETURNED to NYSOH to ensure that your family was given the appropriate APTC for the month of September 2016.

The September 29, 2016 enrollment confirmation notice is AFFIRMED.

The October 8, 2016 eligibility determination notice is MODIFIED to reflect that your eligibility for APTC resumed October 1, 2016.

**Effective Date of this Decision:** March 6, 2017

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

Your family was eligible to receive APTC for the month of September 2016.

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Your case is being sent back to NYSOH to ensure that you did receive this credit for the month of September 2016.

NYSOH properly found your redetermination for APTC was effective 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.

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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- By fax: 1-855-900-5557

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## **Summary**

The September 18, 2016 eligibility determination notice is MODIFIED to affirmatively state that you were not eligible to receive APTC, effective October 1, 2016.

Your case is RETURNED to NYSOH to ensure that your family was given the appropriate APTC for the month of September 2016.

The September 29, 2016 enrollment confirmation notice is AFFIRMED.

The October 8, 2016 eligibility determination notice is MODIFIED to reflect that your eligibility for APTC resumed October 1, 2016.

Your family was eligible to receive APTC for the month of September 2016.

Your case is being sent back to NYSOH to ensure that you did receive this credit for the month of September 2016.

NYSOH properly found your redetermination for APTC was effective 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:**

