



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

Notice of Decision

Decision Date: January 27, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012419

[REDACTED]

Dear [REDACTED],

On January 24, 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 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: January 27, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012419

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

Procedural History

On December 6, 2015, NYSOH issued an eligibility determination notice stating that, based on your December 1, 2015 renewal application, you were conditionally eligible to receive up to \$210.00 per month in APTC and eligible for cost-sharing reductions (CSR), effective January 1, 2016, and needed to pick a plan. The notice instructed you that you needed to submit income documentation before February 29, 2016, and if you did not submit the requested documentation by the date above, you may be found ineligible for health insurance or for less help with your health insurance.

On December 16, 2015, NYSOH issued an enrollment notice stating that, based on your December 1, 2016 plan selection, you were enrolled in a silver-level qualified health plan (QHP), effective January 1, 2016, with a monthly premium of \$220.65 after your APTC of \$210.00 was applied that month.

On September 18, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost, effective October 1, 2016. The notice stated that you were not eligible to receive

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APTC or CSR because NYSOH did not receive the income documentation needed to verify the income listed in your application.

Also on September 18, 2016, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a qualified health plan at full cost, effective January 1, 2016.

On September 20, 2016, NYSOH issued an eligibility redetermination notice stating that, based on your September 19, 2016 updated application you were newly eligible to receive up to \$210.00 per month in APTC and newly eligible for cost-sharing reductions, effective November 1, 2016, and needed to pick a plan.

Also on September 20, 2016, NYSOH issued an enrollment notice stating that, based on your September 19, 2016 plan selection, you were re-enrolled in the same silver-level QHP you had previously, with a start date of November 1, 2016 and a monthly premium of \$220.65 after your APTC of \$210.00 was applied that month.

On October 6, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the month of October 2016.

On January 24, 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 testified, and your application indicates, that you receive all of your notices from NYSOH electronically; that is, by email alert notifications.
- 2) You testified that you were not aware that your eligibility as of December 1, 2015 was only conditional and that you needed to provide income documentation by February 29, 2016.
- 3) According to your NYSOH account, your December 1, 2015 application listed a projected 2016 annual income of \$21,744.00, consisting of \$1,812.00 monthly in Social Security benefits and \$1,500.00 in projected annual capital gains. You testified these amounts were correct at the time because you could not project the amount of capital gains you would receive in 2016.

- 4) You testified that you did not know that you needed to submit documentation of your income until September 18, 2016, when you received an email alert that your eligibility had been redetermined.
- 5) You further testified that this alert prompted you to access your NYSOH account, at which time, you learned you had been redetermined eligible for a QHP at full cost, effective October 1, 2016, because you were no longer eligible for APTC since you did not update your income information.
- 6) According to your NYSOH account and your testimony, you contacted NYSOH and your income was updated to \$26,244.00, which resulted in NYSOH finding you newly eligible for APTC of \$210.00 without condition, but not until November 1, 2016.
- 7) You testified that you are seeking reimbursement for the APTC amount of \$210.00 that you paid in order for your coverage to continue without interruption during the month of October 2016, and that to pay that amount was hardship for you.

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)).

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 advance payments of the premium tax credit (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 December 6, 2015, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income before February 29, 2016.

The record reflects that NYSOH did not receive the requested income documentation before the deadline.

However, you testified that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive any electronic alert regarding the eligibility determination notice, which directed you

that your eligibility was only conditional and that you needed to submit documentation to confirm your income.

There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation, or that the notice was later sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit documentation of your income in order to confirm your eligibility for APTC.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the September 18, 2016 eligibility determination notice stating that you are no longer eligible for APTC because you failed to submit documentation is RESCINDED.

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

Decision

The September 18, 2016 eligibility determination notice is RESCINDED.

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

Effective Date of this Decision: January 27, 2017

How this Decision Affects Your Eligibility

NYSOH erred in terminating your APTC effective October 1, 2016, without the proper notice.

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.

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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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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The September 18, 2016 eligibility determination notice is RESCINDED.

NYSOH erred in terminating your APTC effective October 1, 2016, without the proper notice.

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.

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A Copy of this Decision Has Been Provided To:

