



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

Notice of Decision

Decision Date: March 08, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012462

[REDACTED]

Dear [REDACTED],

On January 25, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 2016 eligibility redetermination.

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 Date: March 08, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012462

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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 premium tax credits and cost-sharing reductions ended effective November 1, 2016?

Procedural History

On December 15, 2013, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$187.00 in advance payments of the premium tax credit (APTC) for 2014. You were subsequently enrolled in a plan during 2014.

On December 20, 2014, NYSOH issued an eligibility determination notice stating that you were *conditionally* eligible to receive up to \$196.00 in APTC, effective January 1, 2015. You were directed to submit income documentation by March 21, 2015, or your eligibility for health insurance and/or financial assistance might end. You were subsequently enrolled in a plan during 2015.

On January 18, 2015, NYSOH issued a Form 1095-A, Health Insurance Marketplace Statement for year 2014, which confirmed your receipt of APTC during 2014.

On December 6, 2015, NYSOH issued an eligibility determination stating that you were *conditionally* eligible to purchase a qualified health plan (QHP) through NYSOH. It also stated you were conditionally eligible to receive up to \$251.00

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per month in APTC and, if you selected a silver level plan, cost-sharing reductions (CSR), effective January 1, 2016. You were subsequently enrolled in a plan during 2016.

On January 17, 2016, NYSOH issued a Form 1095-A, Health Insurance Marketplace Statement for year 2015, which confirmed your receipt of APTC during 2015.

On September 17, 2016, the system redetermined your eligibility and a preliminary eligibility determination was prepared that found you were no longer eligible to receive help paying for your health insurance coverage. However, you could purchase a qualified health plan through NYSOH at full cost, effective November 1, 2016.

On September 18, 2016, NYSOH issued an eligibility determination stating that you were newly eligible to purchase a QHP at full cost through NYSOH, effective November 1, 2016. You were no longer eligible to receive APTC, Medicaid, the Essential Plan or CSR because NYSOH did not receive the documentation needed to verify the income listed on your application and the date to send this information had passed.

Also on September 18, 2016, NYSOH issued an enrollment confirmation notice stating that you were automatically enrolled in your silver-level QHP plan at full cost and that you must pay the monthly premium to keep your coverage.

On September 30, 2016, you updated your account.

Also on September 30, 2016, you submitted a list on a spreadsheet of your purported earnings for July through September 2016. No income documentation had been submitted prior to that time.

On October 7, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the September 18, 2016 subsequent eligibility determinations as they related to your eligibility for APTC and CSR.

On October 8, 2016, NYSOH issued an eligibility determination stating that you were eligible to enroll in the essential plan for a limited time. You were subsequently enrolled in the Essential Plan.

On January 25, 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 receive your notices electronically. You testified that you have been regularly receiving your email alerts, but you had not been able to get into your account. You called in, but the wait time was so long you hung up.
- 2) You testified that because you had not logged into your account, you did not know that your eligibility was conditional only at any time.
- 3) You testified that you had not received any W-2 forms in seven or eight years, because you were basically an independent contractor. You had contracts with different companies, for different lengths of time, and you were unable to provide any pay stubs or other documentary proof of income. You could not document the earnings figures you submitted on the spreadsheet. Your pay was irregular, and some weeks you did not receive any income at all.
- 4) The spreadsheet you submitted stated that you earned \$500.00 per week in July, and \$250.00 per week in August and September.
- 5) You testified that you had not filed a tax return for 2015, but now that you had a job, you are trying to complete your 2015 and 2016 tax returns.
- 6) According to your NYSOH account you have not filed your 2015 or 2016 tax returns to date.

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 is 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)).

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Failing to file your tax return may prevent future advance credit payments (45 CFR § 155.305(f)(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 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)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account within one day of the notice being generated (45 CFR § 155.230(d); 42 CFR § 435.918(b)(3) and (4). If an electronic notice is undeliverable, NYSOH must send a notice by regular mail within three business days of the date of a failed electronic communication (42 CFR § 435.918(b)(5)).

Legal Analysis

The issue under review is whether NYSOH properly determine that your eligibility for advance premium tax credits and cost-sharing reductions ended.

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

The record reflects that you received APTC in 2014, 2015, and 2016, but that as of the time of your hearing, you had not filed a tax return for the 2015 tax year.

Therefore, because you did not file a tax return for a year in which you received APTC, NYSOH properly found that you were no longer eligible to receive APTC. Because that determination was made on September 28, 2016, the change in APTC must be implemented by the first day of the following month, or October 1, 2016.

Accordingly, the September 18, 2016 eligibility determination notice is MODIFIED solely to indicate that you were no longer eligible for APTC as of October 1, 2016.

Decision

The September 18, 2016 eligibility determination notice is MODIFIED solely to indicate that you were no longer eligible for APTC as of October 1, 2016.

Effective Date of this Decision: March 08, 2017

How this Decision Affects Your Eligibility

You were not eligible to receive APTC, effective October 1, 2016, because you did not file a tax return for 2015.

If You Disagree with this Decision (Appeal Rights)

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).

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

The September 18, 2016 eligibility determination notice is MODIFIED solely to indicate that you were no longer eligible for APTC as of October 1, 2016.

You were not eligible to receive APTC, effective October 1, 2016, because you did not file a tax return for 2015.

Legal Authority

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A Copy of this Decision Has Been Provided To:

