



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

## Notice of Decision

Decision Date: March 20, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012488

[REDACTED]

Dear [REDACTED],

On January 26, 2017, you and your representative appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 2016 eligibility determination notice and enrollment confirmation 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 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: March 20, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012488

[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

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

## Procedural History

On December 15, 2015, NYSOH issued a notice of eligibility determination stating you were conditionally eligible to receive up to \$193.00 in monthly advance payments of the premium tax credit (APTC) and conditionally eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective January 1, 2016. The notice directed you to provide documentation of your income before March 13, 2016, to confirm your eligibility.

Also on December 15, 2015, NYSOH issued a notice confirming your enrollment in a qualified health plan with APTC and cost-sharing reductions, effective January 1, 2016.

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

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

On September 28, 2016, a letter from you requesting an appeal of the termination of your APTC was uploaded to your NYSOH account. Thereafter, on October 12, 2016, an appeal was filed on your behalf with regard to your eligibility to receive APTC.

On December 2, 2016, NYSOH issued an eligibility determination notice, based on your December 1, 2016 updated application, indicating you were conditionally eligible to receive up to \$172.00 of monthly APTC, effective January 1, 2017. The notice directed you to provide proof of your income by March 1, 2017. Or you may lose your insurance or receive less help paying for your coverage.

Also on December 2, 2016, NYSOH issued a notice confirming your enrollment in a qualified health plan with APTC and cost-sharing reductions, effective January 1, 2017.

On January 26, 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 and your representative testified, and your NYSOH account confirms, you receive all of your notices from NYSOH by electronic mail.
- 2) You and your representative testified, and your NYSOH account confirms, you completed your renewal of your health coverage through NYSOH for the 2016 coverage year online on December 14, 2015.
- 3) You submitted a screen shot from the NYSOH website confirming the renewal of your health coverage for the 2016 coverage year [REDACTED]. This page stated "Congratulations! We've enrolled everyone in their health plan for another year and you don't have to do anything more." It indicated you were eligible to receive APTC with cost sharing reductions, effective January 1, 2016. Additionally, the confirmation page stated at the bottom "[REDACTED] renewal is complete. He does not need to do anything at this time."

- 4) You testified that you do not recall receiving any electronic alerts notifying you of any notice in your NYSOH account stating your eligibility was only conditional and directing you to provide documentation of your income.
- 5) You and your representative testified, if you had received an alert notifying you that you needed to submit proof of your income you would have submitted the information right away.
- 6) You testified you did not know you needed to submit documentation of your income until you received the eligibility determination notice from NYSOH in September 2016 indicating you were no longer eligible to receive APTC because you failed to submit proof of income.
- 7) Your NYSOH account indicates that on September 17, 2016, your eligibility was systematically redetermined and you were found newly eligible to purchase a full cost qualified health plan as of November 1, 2016. As a result, you were not eligible to receive APTC.
- 8) Your representative testified you did not receive APTC in October, November, or December 2016.
- 9) Your representative testified you paid the health plan the same premium amount in October, November and December 2016 that you had been paying previously with APTC applied. However, your representative indicated the health plan billed you for the full amount for these months.
- 10) You submitted a November 1, 2016 "Final Notice" invoice from your health plan indicating you were billed for the full premium amount in October and November 2016 ( [REDACTED] ).
- 11) You uploaded a copy of your 2015 Form 1099 on September 23, 2016.
- 12) Your account indicates you became eligible to receive APTC again as of January 1, 2017.
- 13) You testified you are seeking reinstatement of your APTC as of October 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 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 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 individual elects to receive electronic communications, NYSOH must send an email or other electronic communication alerting the individual when a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic

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communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined your eligibility for APTC ended, effective October 1, 2016 or otherwise.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her 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 15, 2015, you were advised your eligibility for APTC was only conditional, and you needed to confirm your household's income before March 13, 2016.

According to your account, NYSOH did not receive the requested income documentation before the deadline.

However, you testified, and your account corroborates, that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not recall receiving any electronic alert regarding an eligibility determination notice directing you 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. Moreover, you submitted a screen shot confirming the renewal of your health coverage through NYSOH for the 2016 coverage year. This page appears to conflict with the December 15, 2015 eligibility determination as the confirmation screen states repeatedly that your renewal was complete and you were not required to do anything else at the time. This corroborates your testimony that you were unaware your eligibility was only conditional or that NYSOH requested documentation of your income.

Therefore, it is concluded 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.

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

Additionally, the September 18, 2016 enrollment confirmation notice indicating you were enrolled in a qualified health plan with no APTC applied is MODIFIED to reflect you were eligible to receive APTC.

Your case is RETURNED to NYSOH to ensure you were given the appropriate APTC for the months of October, November and December 2016.

## **Decision**

The September 18, 2016 notice of eligibility determination is RESCINDED.

The September 18, 2016 enrollment confirmation notice is MODIFIED to reflect you were eligible to receive APTC.

Your case is RETURNED to NYSOH to ensure you were given the appropriate APTC for the months of October, November and December 2016.

**Effective Date of this Decision:** March 20, 2017

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

You were eligible to receive APTC in October, November and December 2016.

Your case is RETURNED to NYSOH to ensure you were given the appropriate APTC for the months of October, November and December 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.

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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 notice of eligibility determination is **RESCINDED**.

The September 18, 2016 enrollment confirmation notice is **MODIFIED** to reflect you were eligible to receive APTC

You were eligible to receive APTC in October, November and December 2016.

Your case is **RETURNED** to NYSOH to ensure you were given the appropriate APTC for the months of October, November and December 2016.

### **Legal Authority**

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

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

