



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

Notice of Decision

Decision Date: February 9, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012599

[REDACTED]

Dear [REDACTED],

On February 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 2016 eligibility determination notice and the October 17, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: February 8, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012599



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 and your spouse's eligibility for advance payments of the premium tax credit ended effective September 30, 2016?

Did NYSOH properly determine that your and your spouse's eligibility for advance payments of the premium tax credit was effective December 1, 2016?

Procedural History

On February 27, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to receive up to \$415.00 in 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 April 1, 2016. The notice further directed you to provide documentation confirming your household income before May 26, 2016.

Also on February 27, 2016, NYSOH issued a notice confirming your and your spouse's enrollment in qualified health plan with APTC and cost-sharing reductions, effective March 1, 2016.

On September 18, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a qualified health plan at full cost. The notice stated that you were not eligible to receive APTC or cost-

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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 that you and your spouse were enrolled in a qualified health plan with \$0.00 of APTC applied to your premium.

On October 17, 2016, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you and your spouse were eligible to receive up to \$415.00 in APTC and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective December 1, 2016.

Also on October 17, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your and your spouse's APTC for the months of October 2016 and November 2016.

On October 18, 2016, NYSOH issued a notice of eligibility determination, based on the October 17, 2016 application, stating that you and your spouse were eligible to receive up to \$415.00 in APTC and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective December 1, 2016.

On February 6, 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 NYSOH account confirms, that you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you did receive electronic alerts notifying you of notices in your NYSOH account in February 2016. You further testified that when you signed in to your NYSOH account, there were no notices in the account. You went on to testify that you eventually learned that this was because you had two NYSOH accounts, and you were signing into the incorrect account.
- 3) You testified that you did not know that you needed to submit documentation of your income until you received the bill for your October 2016 premium and the premium amount had increased.

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- 4) Your NYSOH account indicates that on September 17, 2016, your application was run and you were found no longer eligible for APTC as of October 1, 2016.
- 5) You updated the income information in your NYSOH account on October 17, 2016.
- 6) You testified that 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 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

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

Legal Analysis

The first issue under review is whether NYSOH properly determined that your and your spouse's eligibility for 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 February 27, 2016, you were advised that your and your spouse's eligibility for APTC was only conditional, and that you needed to confirm your household's income before May 26, 2016.

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

You testified that you receive alerts regarding notices from NYSOH electronically. You testified that you did receive an electronic alert regarding the February 27, 2016 eligibility determination notice, which directed you that your eligibility was only conditional and that you needed to submit income documentation to confirm your income.

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You testified that you were not aware that you needed to submit income documentation, because, after receiving the electronic alert regarding the February 27, 2016 eligibility determination, you signed into the wrong NYSOH account, which did not have the eligibility determination notice.

As the failure to sign into the correct NYSOH account was not an error on the part of NYSOH, and you testified that you did receive the electronic alert notice, NYSOH properly notified you 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 determination notice is MODIFIED to state that you and your spouse were ineligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application, effective October 1, 2016.

The second issue is whether NYSOH properly determined that your and your spouse's eligibility for advance premium tax credits was effective December 1, 2016.

On October 17, 2016, you updated the income information in your NYSOH account. On October 18, 2016, a notice of eligibility redetermination was issued stating that you and your spouse were eligible to receive up to \$415.00 in APTC and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective December 1, 2016.

As stated above, any changes in APTC are to be made effective the date following the eligibility redetermination notice.

Since you updated your application on October 17, 2016, any changes in APTC should have been made effective as of November 1, 2016.

Therefore, NYSOH's October 18, 2016 eligibility determination is MODIFIED to reflect that you and your spouse were eligible to receive up to \$415.00 per month in APTC, effective November 1, 2016.

Your case is RETURNED to NYSOH to reinstate your and your spouse's \$415.00 per month in APTC as of November 1, 2016.

Decision

The September 18, 2016 notice of eligibility determination is MODIFIED to state that you and your spouse were ineligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application, effective October 1, 2016.

The October 18, 2016 notice of eligibility determination is MODIFIED to reflect that you and your spouse were eligible to receive up to \$415.00 per month in APTC, effective November 1, 2016.

Your case is RETURNED to NYSOH to reinstate your and your spouse's \$415.00 per month APTC as of November 1, 2016.

Effective Date of this Decision: February 8, 2017

How this Decision Affects Your Eligibility

NYSOH properly found you and your spouse ineligible to receive APTC effective October 1, 2016 because you did not provide documentation of your household's income.

You and your spouse are eligible for up to \$415.00 per month in APTC effective November 1, 2016.

Your case is being sent back to NYSOH to reinstate your and your spouse's \$415.00 per month in APTC as of November 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.

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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 MODIFIED to state that you and your spouse were ineligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application, effective October 1, 2016.

NYSOH properly found you and your spouse ineligible to receive APTC effective October 1, 2016 because you did not provide documentation of your household's income.

The October 18, 2016 notice of eligibility determination is MODIFIED to reflect that you and your spouse were eligible to receive up to \$415.00 per month in APTC, effective November 1, 2016.

You and your spouse are eligible for up to \$415.00 per month in APTC effective November 1, 2016.

Your case is RETURNED to NYSOH to reinstate your and your spouse's \$415.00 per month APTC as of November 1, 2016.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

