



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

Notice of Decision

Decision Date: March 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012622

[REDACTED]

Dear [REDACTED],

On February 3, 2016, 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: March 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012622

[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 that you and your spouse's eligibility for advance payments of the premium tax credit ended effective November 1, 2016?

Procedural History

On December 18, 2015, NYSOH issued a notice of eligibility determination stating that, effective January 1, 2016, you and your spouse were conditionally eligible to receive up to \$509.00 in advance payments of the premium tax credit (APTC) and eligible for cost-sharing reductions if you select a silver-level qualified health plan (QHP). The notice further directed you to provide documentation confirming your household income before March 16, 2016.

Also on December 18, 2015, NYSOH issued a notice confirming your and your spouse's enrollment in a silver-level QHP with APTC, effective January 1, 2016.

On December 23, 2015 and January 14, 2016, you submitted proof of your household income, which included 2 bank deposit slips, a letter from your employer, and 2 weekly paystubs each from your spouse's first employer and second employer (see Documents [REDACTED] and [REDACTED]). These documents were invalidated by NYSOH on January 4, 2016 and January 22, 2016, respectively.

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On January 5, 2016 and January 26, 2016, NYSOH issued two notices stating that, although you have submitted documentation to resolve the inconsistency in your household income, the documentation appears to be insufficient to resolve the request. Those notices further directed you to provide additional proof of your household income and your spouse's income.

On February 4, 2016, February 5, 2016, February 11, 2016 and February 16, 2016, you submitted additional proof of income including your 2016 1099-Misc, your spouse's last 2015 paystub and first 2016 paystub from his first employer including year-to-date information, four current consecutive paystubs from your spouse's second employer not including year-to-date information, and a letter from your husband's first employer stating he "continues to be employed by us." You also submitted copies of your and your spouse's driver's licenses and your marriage certificate (see Documents [REDACTED] [REDACTED] [REDACTED] and [REDACTED]). These documents were invalidated by NYSOH on February 17, 2016.

On March 23, 2016 and May 11, 2016, you resubmitted copies of income documentation that were already submitted (see Documents [REDACTED] [REDACTED] [REDACTED] and [REDACTED]). These documents were invalidated by NYSOH on March 31, 2016 and May 12, 2016, respectively.

On April 1, 2016, NYSOH issued a notice stating that, although you have submitted documentation to resolve the inconsistency in your household income, the documentation appears to be insufficient to resolve the request. The notice further directed you to provide additional proof of your household's income.

On May 13, 2016, you submitted additional proof of income, including your electronically signed 2015 income tax return and its attached schedules (see Documents [REDACTED] [REDACTED] and [REDACTED]). These documents were invalidated on May 20, 2016.

On May 23, 2016, NYSOH issued a notice stating that, although you have submitted documentation to resolve the inconsistency in your household income, the documentation appears to be insufficient to resolve the request. The notice further directed you to provide additional proof of your household's income.

On September 18, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a QHP at full cost, effective November 1, 2016. The notice stated that you and your spouse 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.

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Also on September 18, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a QHP with \$0.00 of APTC applied to your and your spouse's premium, effective January 1, 2016.

On October 18, 2016, NYSOH issued a notice of eligibility determination, based on your October 17, 2016 updated application, stating that you and your spouse were eligible to receive up to \$509.00 in APTC and eligible for cost-sharing reductions if you select a silver-level QHP, effective December 1, 2016. The notice further stated that you may be able to enroll in coverage if you qualify for a Special Enrollment Period.

Also on October 18, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a QHP with \$0.00 of APTC applied to your and your spouse's premium, effective January 1, 2016.

On October 19, 2016, NYSOH issued a notice of eligibility determination, based on your October 18, 2016 updated application, stating that you and your spouse were eligible to receive up to \$509.00 in APTC and eligible for cost-sharing reductions if you select a silver level QHP, effective December 1, 2016. The notice further stated that you and your spouse did not qualify to select a health plan outside of the open enrollment period.

Also on October 19, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a QHP with \$509.00 of APTC applied to your and your spouse's premium, effective November 1, 2016.

Also on October 19, 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 February 3, 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 and your spouse receive all of your notices from NYSOH by regular mail.
- 2) You testified that, although you did receive the notices stating that your and your spouse's eligibility was only conditional and that you needed to provide documentation of your household's income, you submitted

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documentation numerous times and it was never enough. You testified that you sent NYSOH all the income documentation you had.

- 3) Your NYSOH account indicates that on September 17, 2016, your application was systematically rerun and you and your spouse were found to be no longer eligible for APTC as of November 1, 2016.
- 4) You testified that you were billed for over \$700.00 per month in premiums for October 2016 and November 2016. You further testified that the health plan put a hold on your account pending the outcome of your appeal because you do not have the money to pay the higher premium. You also testified that your bill still shows a balance owed for October 2016 and November 2016 and the health plan has not paid your medical bills for those months.
- 5) According to your NYSOH account, you updated the income information in your NYSOH account nine times beginning on December 23, 2015 and ending on May 13, 2016. Each time, NYSOH invalidated your household income.
- 6) Specifically, on May 13, 2016, you uploaded your 2015 income tax return and its attached schedules. This was invalidated on May 20, 2016 by NYSOH.
- 7) According to your NYSOH account, when you updated your NYSOH account on October 17, 2016 and October 18, 2016 you were found eligible, as of November 1, 2016, for an amount of up to \$509.00 APTC. One eligibility determination notice stated that you and your spouse do not qualify for a special enrollment period; however, your October 19, 2016 enrollment confirmation notice stated that your APTC would be applied effective November 1, 2016.
- 8) You testified that you and your spouse are seeking reinstatement of your and your spouse's 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 QHP 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

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personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, 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 first issue under review is whether NYSOH properly determined that your and your spouse's eligibility for APTC ended effective November 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.

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In the eligibility determination issued on December 18, 2015, you were advised that you and your spouse was eligible for APTC for a limited time, and that you needed to confirm your household income with documentary proof before March 16, 2016.

You testified that you did receive the notice from NYSOH telling you that you needed to provide proof of income to confirm your and your spouse's eligibility. In fact, on nine separate occasions beginning on December 23, 2015 and ending on May 13, 2016 you submitted proof of income. Specifically, on May 13, 2016, you uploaded your 2015 income tax return and its attached schedules.

However, on May 20, 2016, NYSOH invalidated this proof of income. As a result, during a September 18, 2016 systematic eligibility run, you and your spouse were found no longer eligible for financial assistance as of November 1, 2016. The basis for your ineligibility was that you had not provided proof of your household's income. However, it is reasonable to conclude that your 2015 income tax return as submitted on May 13, 2016, was valid proof of income that could be verified.

Since you did supply proof of household income in a timely manner and before the September 17, 2016 systematic eligibility run, your and your spouse's eligibility for APTC should not have been terminated as of October 1, 2016, the month following the September 18, 2016 eligibility determination.

Therefore, the September 18, 2016 eligibility determination notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your and your spouse's APTC as of October 1, 2016 through December 31, 2016, and to notify you accordingly.

Decision

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

Your case is **RETURNED** to NYSOH to reinstate your and your spouse's APTC as of October 1, 2016 through December 31, 2016, and to notify you accordingly.

Effective Date of this Decision: March 13, 2017

How this Decision Affects Your Eligibility

NYSOH erred in terminating your and your spouse's APTC effective November 1, 2016, for failure to provide proof of household income.

On May 13, 2016, you provided sufficient proof of your household's income that was verifiable.

Your case is being sent back to NYSOH to reinstate your and your spouse's APTC as of October 1, 2016 through December 31, 2016. NYSOH will notify you once this has been completed.

You will be responsible to pay your monthly premium responsibility after APTC is applied for the months of October 2016, November 2016, 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.

Additionally, Appeals Unit decisions on issues involving eligibility for QHPs, 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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NY State of Health Appeals
P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

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

Your case is RETURNED to NYSOH to reinstate your and your spouse's APTC as of October 1, 2016 through December 31, 2016, and to notify you accordingly.

NYSOH erred in terminating your and your spouse's APTC effective November 1, 2016, for failure to provide proof of household income.

On May 13, 2016, you provided sufficient proof of your household's income that was verifiable.

Your case is being sent back to NYSOH to reinstate your and your spouse's APTC as of October 1, 2016 through December 31, 2016. NYSOH will notify you once this has been completed.

You will be responsible to pay your monthly premium responsibility after APTC is applied for the months of October 2016, November 2016, 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:

