



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

## Notice of Decision

Decision Date: March 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012735

[REDACTED]

Dear [REDACTED],

On February 16, 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.

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## Decision

Decision Date: March 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012735



## 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 either October 1, 2016 or November 1, 2016?

## Procedural History

On December 20, 2015, NYSOH issued a notice of eligibility determination stating you were conditionally eligible to receive up to \$322.00 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 January 1, 2016. The notice directed you to provide documentation confirming your income before March 18, 2016, or you might lose your eligibility for health insurance and/or financial assistance.

Also on December 20, 2015, NYSOH issued a notice confirming your enrollment in a qualified health plan with APTC and cost-sharing reductions, effective January 1, 2016.

NYSOH did not receive documentation confirming your income by the March 18, 2016 deadline.

On September 17, 2016, NYSOH systematically redetermined your eligibility.

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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.

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 October 25, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the months of October and November 2016.

On February 16, 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 account indicates, you receive all of your notices from NYSOH by regular mail.
- 2) You testified you received the December 20, 2015 notice stating your eligibility was only conditional and directing you to provide documentation of your income.
- 3) You testified you knew you had to provide proof of your income to NYSOH before March 18, 2016 to confirm your eligibility to continue receiving APTC.
- 4) You testified you went to your local workforce center on or before March 18, 2016 with an external drive and you attempted to upload an Excel worksheet you created to show the amount and types of gross income you received between January 1, 2016 and March 31, 2016.
- 5) You testified you did not receive confirmation from NYSOH that the document was successfully uploaded. Additionally, you testified you did not contact NYSOH to confirm the document had been successfully uploaded.
- 6) No documentation of your income was received by NYSOH prior to the March 18, 2016 deadline.

- 7) Your NYSOH account indicates your eligibility was systematically redetermined on September 17, 2016 and you were found no longer eligible for APTC because NYSOH could not confirm your income.
- 8) You testified you first learned your income documentation was not successfully uploaded when you received the September 18, 2016 eligibility determination notice from NYSOH.
- 9) You testified your APTC was revoked for the months of October and November 2016 and that you paid the full premium amount for these months.
- 10) You testified you are seeking reinstatement of your APTC for October and November 2016.
- 11) Your account indicates you did not submit an updated application for health insurance until December 12, 2016.
- 12) You testified you did not reapply for financial assistance sooner because you believed you were “at the mercy of the appeal.”
- 13) Your account indicates you enrolled in the Essential Plan, effective January 1, 2016, and your qualified health plan was terminated as of December 31, 2016.
- 14) The earliest income documentation available on your NYSOH account are documents uploaded on February 9, 2016, as evidence for your appeal, consisting of worksheets you created to show the estimated income you earned in 2016 [REDACTED].
- 15) You testified that one of the documents was a worksheet you prepared to show the income you earned from January 1, 2016 to March 31, 2016. The document lists “Gross Business Receipts”, “Dividend Income” and “Interest Income” and purports to show the total amount of income earned during that time period. You testified this is the document you attempted to upload to your account in March 2016.
- 16) You testified you do not have a steady income stream, so it is difficult to estimate what your income will be for the upcoming year.
- 17) You testified the majority of your total income is from mutual funds dividends earned in December and, therefore, it is difficult to estimate your annual income until you receive the corresponding Form 1099.

- 18) You testified you file tax returns but you have never provided them to NYSOH as proof of your income because your income changes significantly from year to year.
- 19) According to your account, NYSOH invalidated the income documentation uploaded to your account in February 2017 and directed you to submit additional documentation, including a Form 1040 from your 2015 tax return.

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)).

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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 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 20, 2015, you were advised your eligibility for APTC was only conditional, and you needed to confirm your income before March 18, 2016.

You testified received this notice from NYSOH and you knew you were required to submit proof of your income by March 18, 2016 to confirm your eligibility to continue receiving APTC. Therefore, NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the application.

You testified that prior to March 18, 2016, you attempted to upload, to your NYSOH account, a worksheet you created showing the types and amounts of income you earned from January 1, 2016 to March 1, 2016. However, according to your account, this document was not successfully uploaded until February 2017, long after the March 18, 2016 deadline. Additionally, you testified you never received confirmation that this document was successfully uploaded in March 2016 and you did not contact NYSOH to confirm receipt of said document. Moreover, the income documents you uploaded in February 2017, one of which you testified was the worksheet you attempt to submit in March 2016, were invalidated by NYSOH as insufficient evidence of your income. Accordingly, the evidence shows NYSOH did not receive valid documentation of your income by the March 18, 2016 deadline.

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

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data sources unless the applicant demonstrates that they are unable to provide the required documentation. Your NYSOH account indicates your eligibility was systematically redetermined on September 17, 2016 and you were found no longer eligible for APTC because NYSOH could not confirm your income.

Pursuant to the above cited regulations, any changes in APTC are to be made effective the first day of the month *immediately* following the eligibility redetermination notice, regardless of when during the month the eligibility changes. Since NYSOH was unable to verify the income information listed in your application, your eligibility to receive APTC should have ended as of October 1, 2016, the first day of the month following the September 18, 2016 eligibility redetermination. You testified you were required to pay the full premium payment to the health plan for the months of October and November 2016.

Therefore, the September 18, 2016 eligibility determination stating you were no longer eligible for APTC because you failed to submit documentation is MODIFIED only to clarify that your eligibility for APTC ended October 1, 2016.

It is noted, your account confirms you did not submit an updated application for health insurance to NYSOH until December 12, 2016. Thereafter, you were determined conditionally eligible to enroll in the Essential Plan, effective January 1, 2017. Since your eligibility to receive APTC ended October 1, 2016, as discussed above, and your subsequent eligibility to enroll in the Essential Plan was not effective until January 1, 2017, you were not eligible to receive APTC in October, November, or December 2016.

## **Decision**

The September 18, 2016 notice of eligibility determination is MODIFIED only to clarify that your eligibility for APTC ended October 1, 2016.

**Effective Date of this Decision:** March 22, 2017

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

NYSOH properly found you ineligible to receive APTC as of October 1, 2016 because you did not provide valid documentation of your income.

You were not eligible to receive APTC in October, November, or 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 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  
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- By fax: 1-855-900-5557

## **Summary**

The September 18, 2016 notice of eligibility determination is MODIFIED only to clarify that your eligibility for APTC ended October 1, 2016.

NYSOH properly found you not eligible to receive APTC effective October 1, 2016 because you did not provide valid documentation of your income.

You were not eligible to receive APTC in October, November, or December 2016.

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## **Legal Authority**

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

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

