



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

Notice of Decision

Decision Date: April 27, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012835

[REDACTED]

Dear [REDACTED]

On March 24, 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 27, 2016 eligibility determination and enrollment confirmation notices.

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).

This page intentionally left blank.



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

Decision

Decision Date: April 27, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012835



Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

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

Did NYSOH properly determine your eligibility to receive advance payments of the premium tax credit resumed no earlier than November 1, 2016?

Procedural History

On December 8, 2015, NYSOH issued a notice of eligibility determination stating you were conditionally eligible to receive up to \$310.00 in advance payments of the premium tax credit (APTC), effective January 1, 2016. You were also conditionally eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan. The notice directed you to provide documentation confirming your income before March 6, 2016 or you might be found ineligible for health insurance or receive less assistance paying for your coverage.

On December 10, 2015, NYSOH issued a notice confirming your enrollment in qualified health plan with APTC and cost-sharing reductions, effective January 1, 2016.

No income documentation was received by March 6, 2016.

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).

On September 18, 2016, NYSOH issued an eligibility determination notice, based on a September 17, 2016 systematic eligibility redetermination, stating you were newly eligible to purchase a qualified health plan at full cost, effective November 1, 2016. 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.

Also on September 18, 2016, NYSOH issued an enrollment notice confirming you were enrolled in a qualified health plan with no APTC applied to your premium.

On October 26, 2016, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating you were eligible receive up to \$266.00 in APTC for a limited time, effective December 1, 2016. You were also eligible to receive cost-sharing reductions, for a limited time, if you enrolled in a silver level qualified health plan.

Also on October 26, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the month of October 2016.

On October 27, 2016, NYSOH issued a notice of eligibility determination stating you were eligible to receive up to \$266.00 in APTC for a limited time, effective December 1, 2016. The notice further stated you were eligible to receive cost-sharing reductions, for a limited time, if you enrolled in a silver-level qualified health plan. The notice directed you to submit proof of your income before January 24, 2017 or you might lose your insurance or receive less help paying for your coverage.

Also on October 27, 2016, NYSOH issued an enrollment notice confirming your enrollment in a QHP with APTC applied to the premium, effective November 1, 2016.

On March 24, 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) On December 7, 2015, NYSOH received your updated application for health insurance.
- 2) NYSOH issued a notice on December 8, 2015 indicating your eligibility to receive APTC to help pay for the cost of your health coverage was

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).

only conditional. This notice directed you to submit documentation to confirm the income information listed in the application before March 6, 2016. The notice stated you might be found ineligible for health insurance or for less assistance paying for your coverage if you failed to provide the requested documentation by the deadline.

- 3) You testified you are not sure whether you received the December 8, 2015 eligibility determination notice.
- 4) You testified, and your account indicates, you receive all your notices from NYSOH by regular mail.
- 5) You confirmed the address listed on the December 8, 2016 eligibility determination notice was your correct mailing address at that time.
- 6) There is no indication in your account that the December 8, 2016 eligibility determination notice issued to you by NYSOH was returned as undeliverable.
- 7) You testified you may have been asked for the previous year's tax return when you updated your application in December 2015, but you do not specifically recall.
- 8) You testified you are self-employed and you were confused about what kind of income documentation you had to provide.
- 9) You testified you received an extension to file your 2015 tax return and you provided a copy to NYSOH in November or December 2016, as soon as it was available. You testified you could not have provided it sooner.
- 10) There is no evidence in your account that you contacted NYSOH to request an extension of the deadline in which to provide income documentation to confirm the income information listed in your application.
- 11) Your account confirms that on November 21, 2016, NYSOH received a copy of your Form 1040 Federal Return Summary from your 2015 tax return as well as a Form 8879 IRS e-file Signature Authorization.
- 12) You testified you learned your APTC had been revoked when you received a bill from your health plan for the full premium amount for the month of October 2016.
- 13) You testified you paid the full premium amount to the health plan for the month of October 2016.

- 14) You testified, and your account confirms, you contacted NYSOH on October 26, 2016 to update your account.
- 15) You testified, and your account confirms, your APTC was reinstated as of November 1, 2016.
- 16) You testified you are seeking reinstatement of your APTC for the month of October 2016 because you provided your 2015 tax information as soon as it was available to you.

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 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

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).

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 your eligibility to receive APTC ended, effective either October 1, 2016 or November 1, 2016.

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 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 notice issued December 8, 2015, you were advised your eligibility to receive APTC was only conditional, and you needed to confirm your household's income before March 6, 2016.

The record reflects NYSOH did not receive the requested income documentation prior to this deadline.

You testified that you are not sure whether you received the December 8, 2015 eligibility determination notice. However, you testified you were aware you were required to provide proof of your income to NYSOH, but you were confused about what kind of documentation to send because you are self-employed.

You testified, and your NYSOH account confirms, you elected to receive notifications by regular mail. There is no evidence that the December 8, 2016 eligibility determination notice was returned as undeliverable. Moreover, you confirmed the address listed on the December 8, 2016 notice was your correct mailing address at that time. Accordingly, the evidence establishes NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

Although you testified you were granted an extension to file your 2015 tax return late and you submitted a copy of it to NYSOH as soon as you received it, your

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).

account confirms you did not provide this documentation to NYSOH until November 2016, long after the March 6, 2016 deadline expired. There is no evidence in your account that you contacted NYSOH to request an extension of the deadline or to inquire about other forms of acceptable documentation to confirm self-employed income such as business payrolls and records, or records of earnings and expenses. It is noted that a list of acceptable documentation for self-employment income was included with the December 8, 2016 eligibility determination notice.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine eligibility based on the information available from the data sources unless the applicant demonstrates they are unable to provide the required documentation. Your NYSOH account indicates that on September 17, 2016, NYSOH systematically redetermined your eligibility and found you were no longer eligible to receive APTC because NYSOH was unable to confirm your household 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 month of October 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.

The second issue is whether NYSOH properly determined your eligibility to receive APTC resumed no earlier than November 1, 2016.

On October 26, 2016, NYSOH received your updated application. On October 27, 2016, an enrollment confirmation notice was issued indicating you were enrolled in a qualified health plan with \$266.00 of APTC applied to the monthly premium amount, beginning November 1, 2016.

As cited above, any changes in APTC are to be made effective the first day of the month following the eligibility redetermination notice.

Since you updated your application on October 26, 2016, the reinstatement of APTC should have been made effective as of November 1, 2016. Therefore, NYSOH's October 27, 2016 enrollment confirmation notice is correct and is AFFIRMED.

Additionally, the October 27, 2016, eligibility determination notice stating you were eligible to receive up to \$266.00 in monthly APTC for a limited time, effective November 1, 2016, is correct and is AFFIRMED.

Decision

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

The October 27, 2016 notice of eligibility determination is AFFIRMED.

The October 27, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: April 27, 2017

How this Decision Affects Your Eligibility

You were not eligible to receive APTC in October 2016.

Your eligibility to receive APTC was properly reinstated as of November 1, 2016. Any discrepancy can be reconciled when you file your tax return for the 2016 tax year.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace 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 Federal Marketplace. 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 have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

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).

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

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 is MODIFIED only to clarify that your eligibility for APTC ended October 1, 2016.

The October 27, 2016 notice of eligibility determination is AFFIRMED.

The October 27, 2016 enrollment confirmation notice is AFFIRMED.

You were not eligible to receive APTC in October 2016.

Your eligibility to receive APTC was properly reinstated as of November 1, 2016. Any discrepancy can be reconciled when you file your tax return for the 2106 tax year.

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).

Legal Authority

We are issuing this determination in accordance with 45 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).

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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).

Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&etumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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).