



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

## Notice of Decision

Decision Date: March 07, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012872

[REDACTED]

Dear [REDACTED],

On February 8, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 2016 eligibility redetermination 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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## Decision

**Decision Date:** March 07, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012872

[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 were eligible to enroll in a qualified health plan at full cost effective November 1, 2016?

## Procedural History

On November 23, 2015, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible to receive up to \$76.00 monthly in advance premium tax credit (APTC) effective January 1, 2016. The notice further directed you to provide documentation confirming your income before February 15, 2016.

On November 25, 2015, NYSOH issued an enrollment notice confirming that you enrolled in a qualified health plan (QHP) with an enrollment start date of January 1, 2016. The notice also directed you to provide documentation confirming your income before February 15, 2016.

On September 18, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a QHP at full cost, effective November 1, 2016. The notice stated that you were not eligible to receive APTC 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 stating that you were enrolled in a QHP with \$0.00 of APTC applied to your monthly premium, effective January 1, 2016.

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On October 12, 2016, your NYSOH account was updated.

On October 13, 2016, NYSOH issued an eligibility determination notice stating that you were eligible for a tax credit up to \$76.00 per month effective as of November 1, 2016.

On October 13, 2016, NYSOH issued an enrollment notice confirming that you were enrolled in a QHP with \$76.00 of APTC applied to your monthly premium, effective November 1, 2016.

On October 20, 2016, NYSOH received your appeal request via U.S. mail insofar as the termination of your APTC for the months of January 2016 through December 2016 ([REDACTED]).

Also on October 20, 2016, NYSOH received additional income documentation via U.S. mail ([REDACTED]).

On February 8, 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 were enrolled in QHP, with a \$76.00 tax credit, effective January 1, 2016.
- 2) You testified that you submitted the same income documentation that was received by NYSOH in October 2016 either in November or December 2015.
- 3) According to your NYSOH account, on September 17, 2016 NYSOH redetermined your eligibility and found you eligible to enroll in QHP at full cost effective November 1, 2016.
- 4) According to your appeal request and testimony, your health plan deducted \$1,528.08 from your checking account in October 2016.
- 5) According to your appeal request and testimony, you were notified by your health plan that your APTC was revoked retroactively back to January 1, 2016 and was prompted to contact NYSOH.

- 6) According to your appeal request and testimony, you were notified by NYSOH that your financial assistance was revoked because you failed to submit proof of income documentation by February 2016.
- 7) According to your NYSOH account, your account was updated on October 12, 2016 and you were found eligible as of November 1, 2016 for APTC in a monthly amount of up to \$76.00.
- 8) On October 20, 2016, NYSOH received additional income documentation;
  - (a) First page of your 2015 Form 1040 U.S. Individual Income Tax Return;
  - (b) 2015 Form 1099-R from [REDACTED]
  - (c) 2015 Form 1099-R from [REDACTED]
  - (d) Direct Deposit Summary of pension payments from [REDACTED] for 2015;
  - (e) Direct Deposit Summary for pension payments from [REDACTED] for 2015

[REDACTED]
- 9) You testified that you have received refund payments from your health plan in order to repay you for the financial assistance you were determined eligible to receive in 2016.
- 10) You testified that you want to make sure that your premium tax credit was reinstated for 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 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 issue under review is whether NYSOH properly determined that you were eligible to enroll in a QHP at full cost 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.

In the notices issued on November 23, 2015, and November 25, 2015, you were notified that your eligibility for APTC was only conditional, and that you needed to submit income documentation to confirm your household's income before February 15, 2016.

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Therefore, NYSOH properly notified you of the inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

You testified that you submitted income documentation to NYSOH either in November or December 2015. However, the record is absent of any evidence that income documentation was sent to NYSOH during that time period to confirm the information in your application.

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 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 redetermination notice is MODIFIED to state that you were eligible to enroll in a QHP at full cost effective as of October 1, 2016.

During the hearing you testified that your APTC was retroactively terminated back to January 1, 2016 and that your health plan deducted \$1,528.08 from your checking account in October 2016. Subsequently, you have received refund payments from your health plan in order to repay you for the financial assistance that you were eligible to receive in 2016. However, you want to make sure that your premium tax credit was reinstated for 2016.

Any changes in APTC are to be made effective the date following the eligibility determination notice. Accordingly, your APTC should have only been affected as of October 1, 2016, the month following the September 18, 2016 eligibility redetermination. NYSOH Appeals Unit does not have authority to hear issues involving QHP billing and payments. Therefore, your case is RETURNED to Department of Health's Plan Management Unit in order to investigate whether or not your plan has incorrectly billed you for months that you should have received APTC.

## **Decision**

The September 18, 2016 eligibility redetermination notice is MODIFIED to state that you were eligible to enroll in a QHP at full cost effective October 1, 2016.

Your case is RETURNED to Department of Health's Plan Management Unit in order to investigate whether or not your plan has incorrectly billed you for months that you should have received APTC.

**Effective Date of this Decision:** March 07, 2017

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

NYSOH properly found you eligible to enroll in a QHP at full cost, as stated in the September 18, 2016 notice, because you did not timely provide documentation of your household's income.

NYSOH improperly found that your redetermination of your financial assistance eligibility was November 1, 2016, and has been modified to October 1, 2016.

Your case has been returned to allow the Department of Health's Plan Management Unit to investigate your claim that your QHP retroactively terminated your APTC back to January 1, 2016. You will be notified separately of the outcome of that investigation.

### **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:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The September 18, 2016 eligibility redetermination notice is MODIFIED to state that you were eligible to enroll in a QHP at full cost effective October 1, 2016.

Your case is RETURNED to Department of Health's Plan Management Unit in order to investigate whether or not your plan has incorrectly billed you for months that you should have received APTC.

NYSOH properly found you eligible to enroll in a QHP at full cost, as stated in the September 18, 2016 notice, because you did not timely provide documentation of your household's income.

NYSOH improperly found that your redetermination of your financial assistance eligibility was November 1, 2016, and has been modified to October 1, 2016.

Your case has been returned to allow the Department of Health's Plan Management Unit to investigate your claim that your QHP retroactively terminated your APTC back to January 1, 2016. You will be notified separately of the outcome of that investigation.

## **Legal Authority**

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

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

