



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

## Notice of Decision

Decision Date: February 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012934

[REDACTED]

Dear [REDACTED]

On February 7, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 2016 eligibility determination notice, the November 1, 2016 eligibility determination notice, and the November 1, 2016 enrollment confirmation 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: February 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012934

[REDACTED]

## 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 eligibility for advance payments of the premium tax credit ended effective October 1, 2016?

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

## Procedural History

On December 31, 2015, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible to receive up to \$89.00 per month in advance payments of the premium tax credit (APTC), effective February 1, 2016. The notice further directed you to provide documentation confirming your income before March 29, 2016.

On December 31, 2015, NYSOH issued a notice confirming your enrollment in qualified health plan with APTC, effective January 1, 2016.

On September 18, 2016, NYSOH issued an eligibility determination notice stating that you 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-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.

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On September 18, 2016, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a qualified health plan with \$0.00 of APTC applied to your premium.

On October 27, 2016, you updated your application for financial assistance.

On October 28, 2016, NYSOH issued an eligibility determination stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective December 1, 2016. The notice stated that you were not eligible to receive APTC or cost-sharing reductions because APTC was paid to your health insurance company to reduce your premium costs in a prior year and NYSOH could not ascertain if a federal tax return was filed for that year.

On October 31, 2016, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible to receive up to \$89.00 in APTC per month, effective December 1, 2016.

Also on October 31, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the months of October 2016 and November 2016.

On November 1, 2016, NYSOH issued a notice of eligibility determination, based on the October 31, 2016 application, stating that you were eligible to receive up to \$89.00 in APTC per month, effective December 1, 2016.

On February 6, 2017, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date.

On February 7, 2017, you had an adjourned 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 that you receive your notices from NYSOH by regular mail and electronic mail. Your account indicates that you receive all of your notices from NYSOH by regular mail.
- 2) You testified that you believe you did receive the December 31, 2015 notice stating that your eligibility was only conditional and that you needed to provide documentation of your household's income.

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- 3) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 4) You testified that you first realized that there was a problem with your tax credit when you received the bill for your October 2016 premium and the amount had increased.
- 5) Your NYSOH account indicates that on September 17, 2016 your application was run and you were found no longer eligible for APTC as of November 1, 2016.
- 6) You updated the information in your NYSOH account on October 27, 2016.
- 7) You submitted income documentation to NYSOH on October 28, 2016.
- 8) You testified that you filed your 2015 tax return in late August of 2016 after obtaining an extension.
- 9) You testified that you will file your 2016 tax return as single and will claim no dependents on that tax return. You further testified that your income for 2016 was approximately \$35,000.00.
- 10) Your NYSOH account reflects that APTC was paid on your behalf in 2015.
- 11) 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)).

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NYSOH may not determine a tax filer eligible for APTC if APTC was paid on the tax filer's behalf in a previous year, and a tax return was not filed for that previous year (45 CFR §155.305(f)(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 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.

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In the eligibility determination issued on December 31, 2015, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income before March 29, 2016.

You testified that you believe you did receive a notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. Your NYSOH account indicates, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, 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 eligibility for APTC should have ended as of October, the month following the September 18, 2016 eligibility redetermination.

Therefore, the September 18, 2016 eligibility determination notice is MODIFIED to state 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, effective October 1, 2016.

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

On October 27, 2016, you updated the income information in your NYSOH. On October 28, 2016, a notice of eligibility redetermination was issued stating that you were eligible to purchase a full cost qualified health plan through NYSOH, effective December 1, 2016, as NYSOH had received information that APTC had been paid on your behalf for a year which you did not file a tax return.

On October 31, 2016 you updated the income information in your NYSOH account. On November 1, 2016 a notice of eligibility redetermination was issued stating that you were eligible to receive up to \$89.00 in APTC, effective December 1, 2016.

On October 27, 2016, NYSOH received information that you had not filed a tax return for 2015. However, this information was erroneous. You testified that you filed your 2015 tax return in late August of 2016. Also, on October 31, 2016, NYSOH was able to verify that you had, in fact, filed your 2015 tax return.

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As stated above, any changes in APTC are to be made effective the date following the eligibility redetermination notice. Had you properly been determined eligible for APTC in the October 28, 2016 eligibility determination, your APTC would have gone into effect on November 1, 2016.

Therefore, NYSOH's November 1, 2016 eligibility determination is MODIFIED to reflect that you are eligible to receive up to \$89.00 per month in APTC, effective November 1, 2016. The November 1, 2016 enrollment confirmation notice is MODIFIED to reflect that your APTC of \$89.00 per month applies as of November 1, 2016.

Your case is RETURNED to NYSOH to apply your APTC of \$89.00 per month as of November 1, 2016.

## **Decision**

The September 18, 2016 notice of eligibility determination notice is MODIFIED to state 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, effective October 1, 2016.

The November 1, 2016 eligibility determination notice is MODIFIED to state that you were eligible to receive up to \$89.00 per month in APTC, effective November 1, 2016.

The November 1, 2016 enrollment confirmation notice is MODIFIED to state that your APTC of \$89.00 per month applies as of November 1, 2016.

Your case is RETURNED to NYSOH to apply your APTC of \$89.00 per month as of November 1, 2016.

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

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

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

Your case is being sent back to NYSOH to apply your APTC of \$89.00 per month for the months of November 2016 and December 2016.

## **If You Disagree with this Decision (Appeal Rights)**

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 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  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The September 18, 2016 notice of eligibility determination notice is MODIFIED to state 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, effective October 1, 2016.

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

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).

The November 1, 2016 eligibility determination notice is MODIFIED to state that you were eligible to receive up to \$89.00 per month in APTC, effective November 1, 2016.

The November 1, 2016 enrollment confirmation notice is MODIFIED to state that your APTC of \$89.00 per month applies as of November 1, 2016.

Your case is RETURNED to NYSOH to apply your APTC of \$89.00 per month as of November 1, 2016.

Your case is being sent back to NYSOH to apply your APTC of \$89.00 per month for the months of 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:**

