



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

Notice of Decision

Decision Date: January 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012953

[REDACTED]

[REDACTED]

On January 24, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 2016 and the October 29, 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).

This page intentionally left blank.



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

Decision

Decision Date: January 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012953



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 the eligibility of you and your spouse for advance payments of the premium tax credit ended effective October 1, 2016?

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

Procedural History

On December 16, 2015, NYSOH issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to receive up to \$568.00 in advance payments of the premium tax credit (APTC) and conditionally eligible to receive cost-sharing reductions (CSR) if you enrolled in a silver-level qualified health plan, effective January 1, 2016. The notice further directed you to provide documentation confirming the income of you and your spouse before March 14, 2016.

On December 18, 2015, NYSOH issued an enrollment notice stating that, based on your December 18, 2016 plan selection, you and your spouse were enrolled in a silver-level qualified health plan (QHP), effective January 1, 2016, with a monthly premium of \$178.62 after your APTC of \$568.00 was applied that month.

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 stating that you and your spouse were newly eligible to purchase a QHP at full cost, effective October 1, 2016. The notice stated that you were not eligible to receive APTC or CSR 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 confirmation notice stating that you and your spouse were enrolled in a QHP at full cost, effective January 1, 2016.

On October 28, 2016, NYSOH received a copy of your U.S. Individual Income Tax Return for 2015 (Form 1040A).

On October 29, 2016, NYSOH issued an eligibility redetermination notice stating that, based on your October 28, 2016 updated application you and your spouse were newly eligible to receive up to \$568.00 per month in APTC and newly eligible for cost-sharing reductions, effective November 1, 2016, and needed to pick a plan.

Also on October 29, 2016, NYSOH issued an enrollment notice stating that, based on your October 28, 2016 plan selection, you and your spouse were re-enrolled in the same silver-level QHP you had previously, with a start date of November 1, 2016 and a monthly premium of \$178.62 after your APTC of \$568.00 was applied that month.

On October 31, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of APTC for the month of October 2016.

On January 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) You testified, and your account indicates, that you receive all of your notices from NYSOH by regular mail.
- 2) You testified that you ultimately received the eligibility determination notice stating that the APTC and CSR you and your spouse were receiving was conditional, in spite of it having been delivered to an incorrect address of [REDACTED], rather than your actual address at [REDACTED].

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).

- 3) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 4) According to your NYSOH account, your December 8, 2015 application listed a projected 2016 annual income of \$35,682.96, consisting of \$1,472.75 per month in taxable interest you receive and \$1,500.83 per month in taxable interest your spouse receives. You testified that this amount was accurate.
- 5) The record reflects that you provided a copy of your 2015 tax return to NYSOH on October 28, 2016. You testified that you believed that you provided this document to NYSOH during March 2016. You further testified that you attempted to provide this document to NYSOH through a mobile device but may not have scrolled all the way to the bottom of the program to successfully upload it.
- 6) You testified that you did not know that you needed to submit documentation of your income until you realized that your APTC had been cancelled for October 2016.
- 7) Your NYSOH account indicates that on September 17, 2016, your application was run and you were found no longer eligible for APTC as of October 1, 2016.
- 8) You updated the income information in your NYSOH account on October 28, 2016, which resulted in you and your spouse again being found eligible for an APTC of up to \$568.00 per month, effective November 1, 2016, pending the receipt of income documentation.
- 9) You testified that you are seeking reinstatement of your APTC as of October 1, 2016.
- 10) You testified that you are seeking reimbursement for the APTC amount of \$568.00 that you paid in order for your coverage to continue without interruption during the month of October 2016, and that to pay that amount was hardship for 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

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).

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)).

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 the eligibility of you and your spouse for advance payments of the premium tax credit (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

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).

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 notice issued on December 18, 2015, you were advised that the eligibility of you and your spouse for APTC was only conditional, and that you needed to confirm your household's income before March 14, 2016.

You testified that while the eligibility determination notice was issued an older address that was listed in your account, you ultimately received the notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail.

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 1, 2016, 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 November 1, 2016.

On October 28, 2016, you updated the income information in your NYSOH account. On October 29, 2016, an eligibility redetermination notice was issued stating that you and your spouse were conditionally eligible to receive up to \$568.00 per month in APTC and eligible to receive cost-sharing reductions if you enrolled in a silver-level QHP, effective December 1, 2016.

As stated above, any changes in APTC are to be made effective the date following the eligibility redetermination notice.

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).

Since you updated your application on October 28, 2016, any changes in APTC should have been made effective as of November 1, 2016.

Therefore, NYSOH's October 29, 2016 eligibility determination is correct and is **AFFIRMED**.

Decision

The September 18, 2016 eligibility determination notice is **MODIFIED** to state that you and your spouse 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 October 29, 2016 eligibility determination notice is **AFFIRMED**.

Effective Date of this Decision: January 30, 2017

How this Decision Affects Your Eligibility

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

NYSOH properly found that your redetermination for APTC was effective November 1, 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 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).

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 notice is MODIFIED to state that you and your spouse 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 October 29, 2016 eligibility determination notice is AFFIRMED.

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

NYSOH properly found that your redetermination for APTC was effective November 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

