



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

Notice of Decision

Decision Date: March 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013119

[REDACTED]

Dear [REDACTED],

On March 13, 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.

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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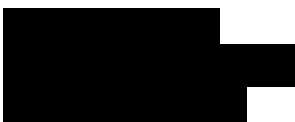


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: March 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013119



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

Procedural History

On December 9, 2015, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible to receive up to \$92.00 per month in advance payments of the premium tax credit (APTC), effective January 1, 2016. The notice further directed you to provide documentation confirming your income before March 7, 2016.

Also on December 9, 2015, NYSOH issued a notice confirming your enrollment in a qualified health plan with APTC, effective January 1, 2016.

On December 31, 2015, income documentation was uploaded to your NYSOH account.

On January 8, 2016, NYSOH reviewed the income documentation that was uploaded to your NYSOH account on December 31, 2015, and determined the documentation to be insufficient proof of income.

On January 11, 2016, NYSOH issued a notice advising you that the income documentation you submitted was insufficient to resolve the inconsistency in your account and additional proof of income was required.

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.

Also 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 November 7, 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 \$92.00 per month in APTC, effective December 1, 2016.

Also on November 7, 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 8, 2016, NYSOH issued a notice of eligibility determination, based on the November 7, 2016 application, stating that you were eligible to receive up to \$92.00 per month in APTC for a limited time, effective December 1, 2016. The notice further directed you to provide documentation confirming your income before February 5, 2017.

On March 13, 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 believe you did receive the December 9, 2015 notice stating that your eligibility was only conditional and that you needed to provide documentation of your household's income.

- 3) The record reflects that on December 8, 2015 a certified application counselor created your application for financial assistance with health insurance.
- 4) You testified that when you met with the certified application counselor to apply for financial assistance with health insurance for the 2016 coverage year, you provided the counselor with income documentation.
- 5) In the December 8, 2015 application you indicated that your income consisted of Title II Social Security benefits and income from a 401(k).
- 6) You testified that you are not sure if you received the January 11, 2016 notice from NYSOH advising you that the income documentation you submitted was insufficient and that additional documentation was required.
- 7) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 8) On December 31, 2015 income documentation was uploaded to your NYSOH account. This consisted of a retirement distribution notice indicating that as of May 1, 2015 you would receive a monthly distribution of \$1,666.67 and a letter from the Social Security Administration indicating that beginning July 22, 2015 you would receive \$1,441.50 on or about the fourth Wednesday of each month.
- 9) On January 8, 2016, NYSOH received the December 31, 2015 submission and found this insufficient to resolve the inconsistency in your account as you had submitted a Social Security Administration letter and four consecutive weeks of pay or a signed and dated employment letter with gross income was required.
- 10) You testified that your only sources of income in 2016 were your Social Security benefits and your 401(k) distribution.
- 11) Your NYSOH account indicates that on September 27, 2016, your application was run and you were found no longer eligible for APTC as of October 1, 2016.
- 12) On February 7, 2017 the same retirement distribution notice as was submitted on December 31, 2015 was uploaded to your NYSOH account. On February 17, 2017, NYSOH verified this letter as sufficient proof of your income.

- 13) On November 7, 2016, you updated the income information in your NYSOH account.
- 14) 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)).

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

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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 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.

In the eligibility determination issued on December 9, 2015, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income before March 7, 2016.

You testified that you did receive the December 9, 2015 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. 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.

On December 31, 2015, income documentation was uploaded to your NYSOH account. On January 8, 2016, NYSOH reviewed this documentation and determined that it was insufficient to verify your income as four consecutive weeks of pay records or a signed and date employment letter with a gross income was required.

However, in your December 8, 2015 application you indicated that your income was derived from Title II Social Security benefits and a 401(k). You provided documentation indicating your monthly income for Social Security as well as your monthly 401(k) distribution.

As you provided documentation confirming the sources of income listed in your December 8, 2015 application, NYSOH improperly invalidated this

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documentation. Furthermore, the exact same documentation was considered sufficient proof of your income by NYSOH on February 17, 2017.

As NYSOH improperly invalidated the income documentation you submitted on December 31, 2015, the September 18, 2016 eligibility determination stating that you are no longer eligible for APTC because you failed to submit income documentation is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your APTC of up to \$92.00 per month as of October 1, 2016.

Decision

The September 18, 2016 notice of eligibility determination is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your APTC of up to \$92.00 per month as of October 1, 2016.

Effective Date of this Decision: March 17, 2017

How this Decision Affects Your Eligibility

NYSOH erred in terminating your APTC effective October 1, 2016, as you had submitted sufficient documentation of your income.

Your case is being sent back to NYSOH to reinstate your APTC of up to \$92.00 per month as of October 1, 2016.

This does not affect your eligibility for APTC for the 2017 coverage year.

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.

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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 is **RESCINDED**.

NYSOH erred in terminating your APTC effective October 1, 2016, as you had submitted sufficient documentation of your income.

Your case is **RETURNED** to NYSOH to reinstate your APTC of up to \$92.00 per month as of October 1, 2016.

Your case is being sent back to NYSOH to reinstate your APTC of up to \$92.00 per month as of October 1, 2016.

This does not affect your eligibility for APTC for the 2017 coverage year.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

