



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

Notice of Decision

Decision Date: March 15, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013139

[REDACTED]

Dear [REDACTED],

On March 2, 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 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 15, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013139

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

Procedural History

On November 22, 2015, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible to receive up to \$166.00 in APTC, effective January 1, 2016. The notice further directed you to provide documentation confirming your income before February 17, 2016.

Also on November 22, 2015 NYSOH issued a notice confirming your enrollment in qualified health plan with APTC, effective January 1, 2016.

On January 3, 2016, income documentation was uploaded to your online account.

On January 11, 2016, your documentation was invalidated by an NYSOH representative.

On March 7, 2016, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible to receive up to \$166.00 in APTC effective April 1, 2016. The notice further directed you to submit income documentation confirming your income by June 5, 2016.

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Also on March 7, 2016, income documentation was uploaded to your online account with a letter stating that you are a freelance worker.

On March 15, 2016, your documentation was invalidated by an NYSOH representative.

Also on March 15, 2016, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income documentation you provided NYSOH appeared insufficient to resolve the previous request.

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.

On November 8, 2016 you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the months of October, November, and December 2016.

On March 2, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open to allow the Hearing Officer time to review phone calls that you had with NYSOH between November 2015 and March 2016. Four phone calls were reviewed and the record was closed.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You filed an application for health insurance on November 19, 2015 attesting to a household income of \$29,525.00, consisting of income you receive from working freelance.
- 2) You testified that you received the November 22, 2015 notice requesting that you submit income documentation to NYSOH by February 17, 2016.
- 3) You testified, and the record confirms, that you submitted documentation of your income on January 3, 2016, which consisted of letters from your employers in 2015. Each letter was on employer

letterhead and included the dates you were employed as well as your gross earnings.

- 4) On January 11, 2016, your income documentation was invalidated by an NYSOH representative because the documentation did not satisfy the criteria for proof of self-employment income.
- 5) You placed a phone call to NYSOH on March 7, 2016. During that phone call, the NYSOH representative confirmed receipt of the January 3, 2016 documents. The NYSOH representative advised you that the documents had been invalidated, and to resubmit them with a letter explaining that you are not self-employed, but work freelance.
- 6) You testified, and the record reflects, that you resubmitted the same documentation of your income with a letter explaining the nature of your work on March 7, 2016.
- 7) You testified that you received the March 8, 2016 notice requesting that you submit income documentation to NYSOH by June 5, 2016.
- 8) You testified that in response to the March 8, 2016 notice you called NYSOH to confirm whether or not there was an issue with the income documentation you submitted on March 7, 2016.
- 9) You placed a phone call to NYSOH on March 10, 2016. During that phone call, you confirmed that you received the March 8, 2016 notice and that you wanted to confirm that they had your income documentation. The NYSOH representative advised you that your documentation had been received, that the letters were sufficient and that he sent a request for reverification.
- 10) You testified that in reliance on the March 10, 2016 phone call you did not submit additional income documentation.
- 11) On March 15, 2016, your income documentation was invalidated by an NYSOH representative because it was not a 2015 tax return or sufficient proof of self-employment.
- 12) You testified that you received the March 15, 2016 notice requesting that you submit additional income documentation to NYSOH.
- 13) You testified that in response to the March 15, 2016 notice you called NYSOH to confirm whether or not there was an issue with the income documentation you submitted on March 7, 2016.

- 14) You placed a phone call to NYSOH on March 28, 2016. During that phone call, you confirmed that you received the March 15, 2016 notice. The NYSOH representative confirmed that your documentation had been received and that she would push it through for validation. The NYSOH representative did not advise you that the documentation had been invalidated on March 15, 2016.
- 15) 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.
- 16) 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 individual's 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

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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 your eligibility for advance payments of the premium tax credit ended effective September 30, 2016.

You filed an application for health insurance on November 19, 2015 attesting to a household income of \$29,252.00 consisting of income earned through freelance employment.

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 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. Valid documentation for proof of wages and salary include paycheck stubs or a letter from an employer on company letterhead, signed and dated, which states gross earnings for the last four weeks.

In the eligibility determination issued on November 22, 2015, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income before February 17, 2016.

The record reflects that NYSOH received the requested income documentation on January 3, 2016, before the deadline, but determined it to be insufficient. The documentation submitted included letters from all of your employers in 2015. Each letter was on company letterhead and included the dates you were employed as well as your gross earnings.

You placed a phone call to NYSOH on March 7, 2016. During that phone call, the NYSOH representative confirmed receipt of the January 3, 2016 documents. The NYSOH representative advised you that the documents had been invalidated, and to resubmit them with a letter explaining that you are not self-employed, but work freelance.

You testified, and the record reflects, that you resubmitted documentation of your income with a letter explaining the nature of your work on March 7, 2016, as directed by the NYSOH representative.

You placed a phone call to NYSOH on March 10, 2016. During that phone call, the NYSOH representative confirmed receipt of the March 7, 2016 documents, advised you that the documentation was sufficient, and explained that he would request revalidation. A review of the telephone conversation you had with NYSOH on March 7, 2016 confirms your testimony insofar as you were advised your documentation had been received and was sufficient.

On March 15, 2016, a notice was sent stating that additional information was required to confirm your eligibility for health insurance.

The record reflects that NYSOH did not receive any additional income documentation.

However, you testified that in response to the March 15, 2016 notice you called NYSOH and were advised that the documentation had been received and would be "pushed" for verification. A review of a telephone conversation you had with NYSOH on March 28, 2016 confirms your testimony insofar as you followed up with NYSOH regarding your documentation and were advised that it had been received.

No additional notices were issued by NYSOH requesting income documentation.

Based on your testimony and the record, it is concluded that you timely submitted sufficient documentation to confirm your income in 2015, and that NYSOH erred by invalidating the documentation submitted on January 3, 2016 or March 7, 2016.

Since you timely submitted sufficient income documentation as directed, 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 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 as of October 1, 2016.

Effective Date of this Decision: March 15, 2017

How this Decision Affects Your Eligibility

NYSOH erred in terminating your APTC effective October 1, 2016 due to insufficient documentation.

Your case is being sent back to NYSOH to reinstate your APTC as of October 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 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):

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Summary

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

NYSOH erred in terminating your APTC effective October 1, 2016 due to insufficient information.

Your case is RETURNED to NYSOH to reinstate your APTC as of October 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:

