



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: AP000000013211

[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 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: February 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013211



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 September 30, 2016?

Procedural History

On December 10, 2015, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible to receive up to \$252.00 in advance payments of the premium tax credit (APTC) and conditionally eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective January 1, 2016. The notice further directed you to provide documentation confirming your income before March 8, 2016.

Also on December 10, 2015, NYSOH issued a notice confirming your enrollment in qualified health plan with APTC and cost-sharing reductions, effective January 1, 2016.

On March 19, 2016, you uploaded paystubs to your NYSOH account.

On March 25, 2016 your documentation was invalidated by an NYSOH representative.

On March 28, 2016, NYSOH issued a notice stating that additional information was required to confirm your eligibility for health insurance. The notice stated that

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NYSOH had not received documentation to confirm your income and if you recently submitted documentation to disregard this message.

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 11, 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 \$252.00 in APTC and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan for a limited time, effective December 1, 2016.

Also on November 11, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the months of October and November 2016.

On November 12, 2016, NYSOH issued a notice of eligibility determination, based on the November 11, 2016 application, stating that you were eligible to receive up to \$252.00 in APTC and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan for a limited time, effective December 1, 2016.

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 left open to allow the Hearing Officer time to review phone calls that you had with NYSOH in the month of March 2016. Two 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 December 9, 2015 attesting to a household income of \$28,600.00 consisting of income you receive from [REDACTED] and [REDACTED]

- 2) You testified that you received the December 10, 2015 notice requesting that you submit income documentation to NYSOH by March 8, 2016.
- 3) You placed a phone call to NYSOH on March 4, 2016. During that phone call, you confirmed receipt of the December 10, 2015 notice and requested that the deadline to submit documentation be extended for a week to allow you time to submit your paystubs. The NYSOH representative advised you that she had extended the deadline to submit documentation to March 23, 2016.
- 4) On March 19, 2016, you uploaded two paystubs from [REDACTED] to your NYSOH account.
- 5) On March 25, 2016, your income documentation was invalidated by an NYSOH representative because you did not submit documentation from [REDACTED].
- 6) You testified that you received the March 28, 2016 notice stating that additional information was required to confirm your eligibility for health insurance.
- 7) You testified that in response to the March 28, 2016 notice you called NYSOH to confirm whether or not there was an issue with the income documentation you submitted.
- 8) You placed a phone call to NYSOH on March 31, 2016. During that phone call, you confirmed that you received the March 28, 2016 notice and that you wanted to confirm that they had your income documentation. The NYSOH representative advised you to disregard the notice because they had your documents but the documents were still in review.
- 9) You testified that in reliance on the March 31, 2016 phone call you did not submit additional income documentation.
- 10) Your NYSOH account indicates that on September 17, 2016, your application was run and you were found no longer eligible for APTC as of September 30, 2016.
- 11) You submitted income documentation from [REDACTED] to NYSOH on November 18, 2016,
- 12) You updated the income information in your NYSOH account on November 11, 2016.

- 13) 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 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 December 9, 2015 attesting to a household income of \$28,600.00 consisting of income you receive from [REDACTED] and [REDACTED].

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.

In the eligibility determination issued on December 10, 2015 in response to your December 9, 2015 application, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income before March 8, 2016.

You placed a phone call to NYSOH on March 4, 2016. During that phone call, you confirmed receipt of the December 10, 2015 notice and requested that the deadline be extended for a week to allow you time to submit documentation. The NYSOH representative advised you that she had extended the deadline to submit documentation to March 23, 2016.

On March 19, 2016, you uploaded two paystubs from [REDACTED] [REDACTED]. Those paystubs were subsequently invalidated by an NYSOH representative because you did not submit documentation from [REDACTED] [REDACTED].

On March 28, 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 the additional income documentation from [REDACTED] before the deadline.

However, you testified that in response to the March 28, 2016 notice you called NYSOH and were advised to disregard that notice. A review of a telephone conversation you had with NYSOH on March 31, 2016 confirms your testimony

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insofar as an NYSOH representative advised you to disregard the notice because they had your income documents but the documents were still in review.

No additional notices were issued by NYSOH requesting income documentation.

Therefore, it is concluded that NYSOH misrepresented to you what had occurred in your NYSOH account in March and did not give you the proper notice that you needed to submit additional income documentation in order to confirm your eligibility for APTC.

Since you were not made aware of and did not receive proper notice that there was still an inconsistency in your NYSOH account after you had provided income documentation, the September 18, 2016 eligibility determination stating that you are no longer eligible for APTC because you failed to submit 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: February 22, 2017

How this Decision Affects Your Eligibility

NYSOH erred in terminating your APTC effective September 30, 2016, without the proper notice.

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.

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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 is RESCINDED.

NYSOH erred in terminating your APTC effective September 30, 2016, without the proper notice.

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

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A Copy of this Decision Has Been Provided To:

