



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: AP000000013254

[REDACTED]

Dear [REDACTED],

On February 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 7, 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).

This page intentionally left blank.

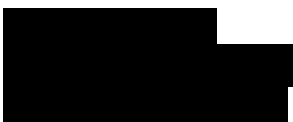


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: March 15, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013254



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

Procedural History

On January 5, 2016, NYSOH issued an eligibility determination notice based on the information contained in an application provided on January 4, 2016. The notice stated that you, your spouse, and your son were newly eligible for advance payments of the premium tax credit (APTC) of up to \$555.00 per month, effective February 1, 2016.

On January 6, 2016, NYSOH issued an enrollment notice confirming your selection of a silver-level health plan for your family's enrollment as of January 5, 2016. The notice stated that your family's coverage under this plan would begin effective February 1, 2016 at monthly premium rate of \$915.91, after giving effect to the maximum APTC of \$555.00.

On September 27, 2016, NYSOH received an update to your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that your family was not eligible for financial assistance.

On September 28, 2016, NYSOH issued an enrollment notice confirming your family's enrollment in the silver-level plan; with a monthly premium amount of \$1,470.91, effective February 1, 2016.

On October 7, 2016, NYSOH issued an eligibility determination notice, based on your September 27, 2016 application, stating that your family was eligible to purchase a qualified health plan (QHP) at full cost through NYSOH, effective February 1, 2016. The notice further stated that your family was not eligible to receive APTC because APTC had been 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 20, 2016, NYSOH received an update to your application for health insurance.

Also on October 20, 2016, NYSOH received a copy of your 2015 federal and state tax returns filed electronically on August 25, 2016.

On October 21, 2016, NYSOH issued an eligibility determination notice based on the information contained in the October 20, 2016 application. The notice stated that your family was eligible to purchase a QHP at full cost through NYSOH, effective December 1, 2016. The notice further stated that your family was not eligible to receive APTC 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.

Also on October 21, 2016, NYSOH issued an enrollment notice confirming your family's enrollment in the silver-level plan with a monthly premium amount of \$1,470.91, effective February 1, 2016.

On November 14, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your family's APTC for the months of October, November and December 2016.

On November 22, 2016, NYSOH received a letter confirming your request for an extension to file your federal tax return for 2015. This extension request was filed to the IRS by your accountant on April 18, 2016.

Federal and state data sources now confirm that you filed a tax return for 2015.

On December 3, 2016, NYSOH issued an enrollment notice reflecting your family's enrollment in a silver-level plan as of December 2, 2016. The notice stated that your family's coverage under this plan would begin effective January 1, 2017 at monthly premium rate of \$751.64, after giving effect to the maximum APTC of \$905.83.

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 February 17, 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 reflects, that you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you did not receive any electronic alerts regarding any notice stating that your family's eligibility for APTC during 2016 was conditional.
- 3) You testified that you first realized that there was a problem with your tax credit when you received the bill for your November 2016 premium and the amount had increased.
- 4) 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.
- 5) You updated the information in your NYSOH account on October 20, 2016.
- 6) On October 20, 2016, you submitted to NYSOH a copy your 2015 federal and state tax returns filed electronically on August 25, 2016. This document was determined invalid by NYSOH on October 31, 2016, since this copy was not signed.
- 7) On November 22, 2016, you submitted to NYSOH a letter confirming your request for an extension to file your federal tax return for 2015. This extension request was filed to the IRS by your accountant on April 18, 2016.
- 8) Your NYSOH account reflects that APTC was paid on your behalf in 2015.
- 9) You testified that you are seeking reinstatement of your APTC as of October 1, 2016.
- 10) Your family was subsequently found eligible for an APTC of up to \$905.83 per month for coverage beginning January 1, 2017.

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)).

People who use APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on NYSOH application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

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)).

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 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 family's eligibility for APTC ended effective October 1, 2016.

The record reflects that your family was enrolled in a silver-level plan beginning February 1, 2016 at monthly premium rate of \$915.91, after giving effect to an APTC of \$555.00.

On September 27, 2016, NYSOH received an update to your application for health insurance. As a result of this application, your family was no longer eligible to receive financial assistance through NYSOH. According to an October 7, 2016, this was because NYSOH had received information that APTC had been paid on your behalf for a year which you did not file a tax return.

You testified that you filed your 2015 tax return in late August of 2016 after having timely filed for an extension on April 18, 2016. On October 20, 2016, provided a copy of your 2015 tax return filed electronically to the IRS on August 25, 2016.

At the time of the September 27, 2016, NYSOH had not received information from IRS that your household's taxes had been properly filed. If NYSOH is unable to obtain information that a prior year's tax return had been filed, 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.

Although you testified, and provided a copy of your 2015 tax return, it is now 2017. People who use APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on NYSOH application) with their actual income (stated on their federal income tax return). Therefore, if your family should have been eligible for tax credits in October, November, and December 2016 you can reconcile the amount you should have been given when you file your 2016 income tax return.

Therefore, NYSOH's October 7, 2016 eligibility determination notice is AFFIRMED.

Decision

NYSOH's October 7, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: March 15, 2017

How this Decision Affects Your Eligibility

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 has no effect on your household's current eligibility.

Any tax credits you may be owed for 2016 can be reconciled when you file your 2016 income tax return.

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):

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

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).

Summary

The October 7, 2016 eligibility determination notice is AFFIRMED.

This decision has no effect on your household's current eligibility.

Any tax credits you may be owed for 2016 can be reconciled when you file your 2016 income tax return.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

