



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: AP000000013270

[REDACTED]

Dear [REDACTED],

On February 23, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 2016 and November 15, 2016 eligibility determination notices and the loss of eligibility for advance payments of the premium tax credit for October and November of 2016.

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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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 you and your spouse were not eligible for advance payments of the premium tax credit as of October 1, 2016?

Did NYSOH properly determine that eligibility for advance payments of the premium tax credit did not resume until December 1, 2016?

Procedural History

On February 18, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to receive up to \$499.00 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 April 1, 2016. The notice further directed you to provide documentation confirming your income before May 16, 2016, or you might lose your eligibility for health insurance and/or financial assistance.

On March 10, 2016, NYSOH issued a notice confirming you and your spouse's enrollment in qualified health plan with APTC and cost-sharing reductions, effective April 1, 2016.

No documentation was submitted by May 16, 2016.

On September 18, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a qualified health plan only at full cost. The notice stated that you and your spouse 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. The notice also stated that this eligibility was effective November 1, 2016.

Also on September 18, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a qualified health plan with \$0.00 of APTC applied to your premium.

On November 14, 2016, you updated your application for financial assistance.

Also on November 14, 2016, NYSOH issued a preliminary eligibility determination stating that you and your spouse were eligible to receive \$471.00 in APTC and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective December 1, 2016.

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

On November 15, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to receive \$471.00 in APTC and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective December 1, 2016.

On February 23, 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 did not receive any notices stating that you and your spouse's eligibility was only conditional and that you needed to provide documentation of your household's income.
- 3) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.

- 4) You testified that you did not know that you needed to submit documentation of your income until you received an invoice from your insurance carrier with a substantially higher monthly premium.
- 5) Your NYSOH account indicates that on September 17, 2016 your eligibility was redetermined and you and your spouse were found no longer eligible for APTC. Your receipt of APTC apparently ended as of October 1, 2016.
- 6) You updated the income information in your NYSOH account on November 14, 2016.
- 7) You testified that you are seeking reinstatement of you and your spouse's APTC for October 2016 and November 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 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 you and your spouse were not eligible for the receipt of APTC as of 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 February 18, 2016, you were advised that you and your spouse's eligibility for APTC was only conditional, and that you needed to confirm your household's income before May 16, 2016.

You testified that you did not receive any 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. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, it is concluded that 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

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the required documentation. Any changes in APTC are to be made effective the date following the eligibility redetermination notice.

When NYSOH redetermined your eligibility on September 17, 2016, it correctly determined that you and your spouse were no longer eligible for APTC because you had not submitted the required proof of income. However, federal regulation requires that any change in eligibility for APTC be implemented on the first day of the following month, or in this case, October 1, 2016.

Therefore, the September 18, 2016 eligibility determination notice is MODIFIED to state that you and your spouse were not eligible to receive APTC effective October 1, 2016, because NYSOH had not received the income documentation needed to verify the income listed in your application.

The second issue under review is whether NYSOH properly determined that eligibility for APTC for you and your spouse resumed no earlier than December 1, 2016.

When you did update your account on November 14, 2016, you were appropriately found eligible for APTC once more. NYSOH properly determined that eligibility for APTC resumed on December 1, 2016, the first day of the next following month.

Therefore, NYSOH's November 15, 2016 eligibility determination is correct and is AFFIRMED.

Decision

The September 18, 2016 notice of eligibility determination 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 November 15, 2016 notice of eligibility determination is AFFIRMED.

Effective Date of this Decision: March 17, 2017

How this Decision Affects Your Eligibility

NYSOH's September 18, 2016 notice of eligibility determination is MODIFIED to reflect that you and your spouse were not eligible to receive APTC effective October 1, 2016 because you did not provide documentation of your household's income.

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NYSOH properly found that you and your spouse's redetermination for APTC was effective December 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):

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 MODIFIED to state that you and your spouse were not eligible to receive APTC because NYSOH did
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not receive the income documentation needed to verify the income listed in your application, effective October 1, 2016.

The November 15, 2016 notice of eligibility determination is AFFIRMED.

NYSOH properly found that you and your spouse's redetermination for APTC was effective December 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:

