



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

## Notice of Decision

Decision Date: March 3, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013465

[REDACTED]

Dear [REDACTED]

On February 22, 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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## Decision

Decision Date: March 3, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013465



## 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 November 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 \$191.00 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 February 17, 2016.

On December 4, 2015, NYSOH issued a notice confirming your enrollment in qualified health plan with APTC, effective January 1, 2016.

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 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, with a start date of January 1, 2016.

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On November 22, 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 \$186.00 in APTC, effective January 1, 2017.

Also on November 22, 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 November 23, 2016, NYSOH issued a notice of eligibility determination, based on the November 22, 2016 application, stating that you were eligible to receive up to \$186.00 in APTC, effective January 1, 2017.

On February 22, 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 received the November 22, 2015 notice stating that your eligibility was only conditional and that you needed to provide documentation of your household's income by February 17, 2016.
- 3) No documentation was submitted prior to the February 17, 2016 deadline.
- 4) You testified that you did not know that you needed to submit income documentation until November 2016, when you became aware that you were no longer eligible for APTC.
- 5) Your NYSOH account indicates that on September 17, 2016, your application was run and you were found no longer eligible for APTC as of November 1, 2016.
- 6) You submitted income documentation to NYSOH on December 6, 2016.
- 7) 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 month following the date of the notice (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

## **Legal Analysis**

The only issue under review is whether NYSOH properly determined that your eligibility for APTC ended effective November 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 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.

You testified that you received notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. 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. The record reflects that no documentation was received prior to the February 17, 2016 deadline.

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 the required documentation. Any changes in APTC are to be made effective the first day of the month following the eligibility redetermination notice.

Accordingly, your eligibility for APTC should have ended as of October 2016, the month following the September 17, 2016 eligibility redetermination.

Therefore, the September 18, 2016 eligibility determination notice is MODIFIED to state that you 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.

## **Decision**

The September 17, 2016 notice of eligibility determination is MODIFIED to state that you 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.

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**Effective Date of this Decision:** March 3, 2017

## **How this Decision Affects Your Eligibility**

NYSOH properly found you not eligible to receive APTC effective October 1, 2016 because you did not provide documentation of your household's income.

## **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:

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- By fax: 1-855-900-5557

## **Summary**

The September 18, 2016 notice of eligibility determination is MODIFIED to state that you 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.

## **Legal Authority**

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



**A Copy of this Decision Has Been Provided To:**

