



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

Notice of Decision

Decision Date: March 21, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014437

[REDACTED]

Dear [REDACTED],

On March 15, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 28, 2016 eligibility determination and December 30, 2016 enrollment confirmation notices.

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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DEPARTMENT OF HEALTH
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Decision

Decision Date: March 21, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014437

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that your and your spouse's enrollment in your qualified health plan and application of your advance payment of the premium tax credit began February 1, 2017?

Procedural History

On October 24, 2016, NY State of Health (NYSOH) received your application for financial assistance with your health insurance.

On October 25, 2016, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income information you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit income documentation for your household as well as proof that your third party health insurance had terminated by November 8, 2016.

On October 26, 2016, income documentation and termination of third party health insurance documentation was uploaded to your NYSOH account.

On November 7, 2016, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account as you had only submitted one paystub from [REDACTED] and either 2 biweekly paystubs or 4 weekly paystubs was required dated within thirty days of October 24, 2016.

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On November 8, 2016, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. This notice further requested that you submit additional proof of for your household by November 23, 2016.

Also on November 8, 2016, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income information you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit income documentation for your household by November 23, 2016.

On November 11, 2016, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income information you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit income documentation for your household by November 23, 2016.

On November 21, 2016, income documentation was uploaded to your NYSOH account.

On December 2, 2016, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account as you had only submitted one paystub for [REDACTED]

On December 3, 2016, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income information you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit income documentation for your household by December 8, 2016.

Also on December 3, 2016, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. This notice further requested that you submit additional proof of for your household by December 23, 2016.

On December 6, 2016 and December 7, 2016, income documentation was uploaded to your NYSOH account.

On December 8, 2016, NYSOH issued a notice advising you that documentation you had submitted through your NYSOH on-line account was password protected, and NYSOH cannot accept password protected files.

On December 23, 2016, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account as a letter was required from [REDACTED].

On December 24, 2016, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. This notice further requested that you submit additional proof of for your household by January 7, 2017.

On December 28, 2016 you updated your application for health insurance.

On December 29, 2016, NYSOH issued a notice of eligibility determination, based on the December 28, 2016 application, stating that you and your spouse were eligible for up to \$575.00 per month in advance payment of the premium tax credit (APTC) as well as cost-sharing reductions if you selected a silver level plan for enrollment, effective February 1, 2017.

Also on December 29, 2016 you selected a qualified health plan for yourself and your spouse for enrollment.

Also on December 29, 2016, you contacted the NYSOH Account Review Unit and requested an appeal of the start date of your and your spouse's APTC, requesting that it begin January 1, 2017.

On December 30, 2016, an enrollment confirmation notice was issued confirming your selection of a qualified health plan for yourself and your spouse on December 29, 2016. The notice confirmed your and your spouse's enrollment in a qualified health plan starting February 1, 2017 and that your and your spouse's APTC would be applied to your monthly premium effective February 1, 2017.

On March 15, 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 that you are seeking to have your and your spouse's qualified health plan and APTC effective as of January 1, 2017.
- 2) You testified that your and your spouse's third party health insurance through your spouse's employer terminated on October 31, 2016.

- 3) You testified that you and your spouse were without health insurance for the months of November 2016, December 2016, and January 2017. You testified that you are no longer seeking coverage for November 2016 and December 2016.
- 4) You testified that you have outstanding medical bills for January 2017.
- 5) According to your NYSOH account, NYSOH received your applications for financial assistance on October 24, 2016 and December 28, 2016.
- 6) You testified that you and your spouse intend to file your 2017 taxes as married filing jointly, and will claim no dependents on that return.
- 7) You testified that your spouse has not yet returned to work since his employment terminated on October 14, 2016.
- 8) You testified that you reside in [REDACTED] County.
- 9) You testified that you have two employers, [REDACTED] and [REDACTED].
- 10) You testified that your expected annual income is currently \$34,985.66.
- 11) On October 26, 2016 you submitted a series of documents to NYSOH. This submission included a letter from your spouse's former employer [REDACTED] and that your insurance would continue until October 31, 2016; your spouse's paystub for pay date October 7, 2016; two of your paystubs from [REDACTED] for pay dates October 7, 2016 and October 21, 2016; and one of your paystubs from [REDACTED] for pay date October 20, 2016.
- 12) On November 7, 2016, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account as you had only submitted one paystub from [REDACTED] and either 2 biweekly paystubs or 4 weekly paystubs was required dated within thirty days of October 24, 2016.
- 13) On November 21, 2016, you submitted a series of income documents to NYSOH. This submission included your spouse's paystub for pay date October 7, 2016; two of your paystubs from [REDACTED] for pay dates October 7, 2016 and October 21, 2016; one of your paystubs from [REDACTED] for pay date October 20, 2016; and one password protected document.

- 14) On December 2, 2016, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account as you had only submitted one paystub for [REDACTED]. However, at that time, NYSOH noted that the paystubs you had submitted from [REDACTED] were valid.
- 15) On December 6, 2016 you submitted a letter from your employer, [REDACTED], dated December 6, 2016, stating that you are paid on a biweekly basis. That day, you also submitted a letter from your spouse's former employer dated October 14, 2016 [REDACTED].
- 16) On December 7, 2016 you submitted a series of income documents to NYSOH. This submission included an employment letter from [REDACTED] dated July 27, 2016 as well as paystubs from [REDACTED] for pay date September 8, 2016; September 22, 2016; October 6, 2016; October 20, 2016; November 3, 2016; November 17, 2016; and December 1, 2016.
- 17) On December 23, 2016, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account as a letter was required from T [REDACTED].
- 18) The record reflects that you selected a qualified health plan for yourself and your spouse for enrollment on December 29, 2016.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Verification of Eligibility for Advance Payments of the Premium Tax Credit

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).

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)).

Timely Notice of Qualified Health Plan Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify that

applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

NYSOH must not proceed with the applicant's eligibility determination, or provide advance payments of the premium tax credit or cost-sharing reductions, unless the applicant provides sufficient information for NYSOH to make an eligibility determination (45 CFR §155.310(k)(3)).

Legal Analysis

The issue is whether NYSOH properly determined that you and your spouse's enrollment in your qualified health plan and application of your APTC began February 1, 2017.

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.

You updated your NYSOH account on October 24, 2016. The income amount that was entered into this application did not match federal and state data sources. As a result, NYSOH asked that you submit additional documentation to confirm your income.

On October 26, 2016, you uploaded a copy of your spouse's letter of separation, two consecutive biweekly paystubs for [REDACTED] and one paystub from [REDACTED].

On December 6, 2016, you submitted a letter from [REDACTED] indicating that you are paid on a biweekly basis.

On December 7, 2016, you submitted an employment letter from [REDACTED] as well as seven biweekly paystubs from [REDACTED].

On December 23, 2016, NYSOH deemed these documents insufficient proof of income as you had not submitted a letter from [REDACTED].

However, the record reflects that you were paid on a biweekly basis by your two employers.

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Therefore, your application was complete as of December 7, 2016 for purposes of issuing an eligibility determination.

Had NYSOH properly verified your income documentation, you and your spouse's eligibility could have been determined as soon as December 7, 2016. Had NYSOH issued an eligibility determination on December 7, 2016, you would have been able to select a qualified health plan for yourself and your spouse for enrollment as soon as December 7, 2016.

The date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month will go into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month will go into effect on the first day of the second following month.

Were you able to select a qualified health plan for yourself and your spouse for enrollment on December 7, 2016, your and your spouse's enrollment in your qualified health plan would have taken effect on the first day of the first month following after December 2016; that is, on January 1, 2017.

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

Since your application was complete on December 7, 2016, and your eligibility could have been determined as of December 7, 2016, any changes in your APTC would be effective the first of the month following the eligibility redetermination notice; that is, on January 1, 2017.

Therefore, the December 29, 2016 eligibility determination notice is MODIFIED to reflect that your and your spouse's eligibility for up to \$575.00 per month in APTC is effective January 1, 2017.

The December 30, 2016 enrollment notice is MODIFIED to reflect that your and your spouse's enrollment in your qualified health plan is effective January 1, 2017 and that your APTC applies to your monthly premium as of January 1, 2017.

Your case is RETURNED to NYSOH to enroll you and your spouse in your qualified health plan and to apply your APTC to your monthly premium as of January 1, 2017.

Decision

The December 29, 2016 eligibility determination notice is MODIFIED to reflect that you and your spouse's eligibility for up to \$575.00 per month in APTC is effective January 1, 2017.

The December 30, 2016 enrollment notice is MODIFIED to reflect that you and your spouse's enrollment in your qualified health plan is effective January 1, 2017 and that your APTC applies to your monthly premium as of January 1, 2017.

Your case is RETURNED to NYSOH to enroll you and your spouse in your qualified health plan and to apply your APTC to your monthly premium as of January 1, 2017.

Effective Date of this Decision: March 21, 2017

How this Decision Affects Your Eligibility

You and your spouse are eligible for up to \$575.00 per month in APTC as of January 1, 2017.

Your and your spouse's enrollment in your qualified health plan is effective as of January 1, 2017.

Your and your spouse's APTC of up to \$575.00 per month applies to your monthly premium as of January 1, 2017.

Your case is being sent back to NYSOH to enroll you and your spouse in your qualified health plan and to apply your APTC of up to \$575.00 per month to your monthly premium as of January 1, 2017.

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.

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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 December 29, 2016 eligibility determination notice is MODIFIED to reflect that your and your spouse's eligibility for up to \$575.00 per month in APTC is effective January 1, 2017.

You and your spouse are eligible for up to \$575.00 per month in APTC as of January 1, 2017.

The December 30, 2016 enrollment notice is MODIFIED to reflect that your and your spouse's enrollment in your qualified health plan is effective January 1, 2017 and that your APTC applies to your monthly premium as of January 1, 2017.

Your and your spouse's enrollment in your qualified health plan is effective as of January 1, 2017.

Your and your spouse's APTC of up to \$575.00 per month applies to your monthly premium as of January 1, 2017.

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Your case is RETURNED to NYSOH to enroll you and your spouse in your qualified health plan and to apply your APTC to your monthly premium as of January 1, 2017.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

