



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

Notice of Decision

Decision Date: April 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012660

[REDACTED]

Dear [REDACTED]

On February 7, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 2016 eligibility redetermination 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 Date: April 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012660

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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 your eligibility for advance premium tax credits (APTC) ended effective September 30, 2016?

Did NYSOH properly redetermine that you were eligible to purchase a qualified health plan at full cost effective December 1, 2016?

Procedural History

On January 6, 2016, NYSOH issued an eligibility determination notice stating that you were conditionally eligible to receive up to \$237.00 in APTC and conditionally eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective February 1, 2016. The notice further directed you to provide documentation confirming your income before April 4, 2016.

On January 9, 2016, NYSOH issued an enrollment notice confirming your enrollment in silver-level qualified health plan with APTC and cost-sharing reductions to be applied, effective February 1, 2016.

On September 18, 2016, NYSOH issued an eligibility redetermination notice stating that, effective November 1, 2016, 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 within the required timeframe.

Also on September 18, 2016, NYSOH issued an enrollment notice confirming you were enrolled in a silver-level qualified health plan with \$0.00 of APTC applied to your premium.

On October 19, 2016, you updated your application for financial assistance. That day, a preliminary eligibility redetermination was prepared finding you not eligible to receive help paying for your health insurance coverage. However, you could purchase a qualified health plan through NYSOH at full cost, effective December 1, 2016.

Also on October 19, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC as of October 1, 2016.

On October 20, 2016, NYSOH issued an eligibility redetermination notice, consistent with your October 19, 2016 application and its preliminary redetermination, stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective December 1, 2016. The notice further stated that you were not eligible to receive APTC because: (1) 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; or (2) you told NYSOH you did not plan on filing a federal tax return.

On February 7, 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 did receive the January 6, 2016 notice stating that your eligibility was only conditional and that you needed to provide documentation of your household's income.
- 2) You testified that you have not filed federal taxes since 2012, because your sole source of income is \$2,000.00 of alimony you receive every month and you are not required to file a tax return.
- 3) According to your NYSOH account, your January 9, 2016 application for financial assistance indicates that your yearly household income is \$24,000.00. You testified that this was accurate.

- 4) Also, according to your NYSOH account, your January 9, 2016 application states your tax filing status is "██████"
- 5) You testified that you have not sent any proof of income documents to NYSOH because you have not filed tax returns in several years and your only income is your monthly alimony. You testified that no one was able help you with the problem you have of not having filed taxes for several years and its impact on your ability to receive APTC and cost-sharing reductions.
- 6) According to your October 19, 2016 updated application, your tax filing status was changed to state you "will not be filing taxes."
- 7) You testified that you are seeking reinstatement of your APTC as of October 1, 2016 because, without it, you cannot afford health insurance.

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 is 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)).

NY State of Health may authorize APTC only when it obtains certain necessary attestations from the tax filer, including an attestation that she will file an income tax return for the benefit year (45 CFR § 155.310(d)(2)(ii)(A)).

In addition, 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)).

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

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benefits from the Commissioner of Social Security 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)).

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

Initially, it is noted that in the eligibility determination notice issued on January 6, 2016, you were advised that your eligibility for APTC was only conditional, and you were instructed that you needed to confirm your household's income before April 4, 2016. You testified that you did, in fact, receive that January 6, 2016 notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. As such, the propriety and adequacy of NYSOH's January 6, 2016 notice of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account is not in dispute.

Therefore, the issue turns to whether NYSOH properly determined that your eligibility for APTC ended effective September 30, 2016.

According to your NYSOH account, you were enrolled in a silver-level qualified health plan, effective February 1, 2016, at a monthly premium of \$171.04 after APTC of \$237.00 per month was applied on a conditional basis.

On September 17, 2016, NYSOH conducted a systematic run of your application for health insurance. According to the September 18, 2016 eligibility redetermination notice that resulted, you were no longer eligible to receive financial assistance because NYSOH had not received the income documentation needed to verify the income listed in your application within the required timeframe.

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, as in your case, unless the applicant demonstrates that they are unable to provide the required documentation. Any changes in APTC are to be made effective the date following the eligibility redetermination notice.

Accordingly and since NYSOH could not confirm your household's income, you were correctly redetermined ineligible to receive APTC and to qualify to purchase a health plan at full cost. However, your eligibility for APTC should have ended

as of October 1, 2016, the month following the September 18, 2016 eligibility redetermination.

Therefore, the September 18, 2016 eligibility redetermination notice is MODIFIED to state that, effective October 1, 2016, you were newly eligible to purchase a qualified health plan at full cost and were no longer eligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application.

It follows that the September 18, 2016 enrollment notice confirming your enrollment in your silver-level qualified health plan at full cost and without APTC, effective October 1, 2016, is AFFIRMED.

Next and according to your NYSOH account, on October 20, 2016, NYSOH issued an eligibility redetermination notice, based on your October 19, 2016 application and its preliminary redetermination, stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective December 1, 2016. The reasons stated in the notice for your ineligibility to receive APTC were: (1) 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; or (2) you told NYSOH you did not plan on filing a federal tax return.

The analysis, therefore, turns to the impact of your reported tax filing status on your eligibility for APTC. You testified that you have not filed a federal tax return since 2012. You testified that your sole source of income is the \$2,000.00 a month in alimony you receive and you are not required to file a tax return. According to your October 19, 2016 application and your testimony, you updated your tax filing status and indicated that you will not be filing taxes in 2016.

To be eligible for APTC to help pay for the cost of health insurance during the 2016 tax year, a person must attest to planning on filing a 2016 tax return. You testified that you have not filed a tax return since 2012 and do not plan to file a tax return for 2016. Since the credible evidence of record supports the findings that you do not expect to file a tax return for 2016, you were correctly redetermined eligible to purchase a qualified health plan at full cost, effective December 1, 2016, and ineligible for APTC based on your updated tax filing basis.

It also follows that, to be eligible for cost-sharing reductions, a person must be found eligible for APTC. Since you were not eligible for APTC, you also were no longer eligible for cost-sharing reductions.

Therefore, the October 20, 2016 eligibility redetermination notice finding you eligible to purchase a qualified health plan at full cost and not eligible for APTC

based on you not filing taxes, effective December 1, 2016 is correct and must be AFFIRMED.

Decision

The September 18, 2016 eligibility redetermination notice is MODIFIED to state that, effective October 1, 2016, you were newly eligible to purchase a qualified health plan at full cost and you were not eligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application.

The September 18, 2016 enrollment notice confirming your enrollment in your silver-level qualified health plan at full cost and without APTC, effective October 1, 2016, is AFFIRMED.

The October 20, 2016 eligibility redetermination notice finding you eligible to purchase a qualified health plan at full cost and not eligible for APTC based on your tax filing status of not filing taxes, effective December 1, 2016, is AFFIRMED.

Your case is RETURNED to NYSOH to MODIFY your ineligibility for APTC to October 1, 2016 and to notify you accordingly.

Effective Date of this Decision: April 26, 2017

How this Decision Affects Your Eligibility

You were not eligible to receive APTC, effective October 1, 2016, because you did not provide documentation to confirm your household's income within the required timeframe. Your new eligibility to purchase a qualified health plan at full cost is being modified to take effect October 1, 2016.

You again became eligible to purchase a qualified health plan at full cost, effective December 1, 2016, and were no longer eligible for APTC because you will not be filing taxes in 2016, which is required to be eligible for APTC.

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.

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).

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 eligibility redetermination notice is MODIFIED to state that, effective October 1, 2016, you were newly eligible to purchase a qualified health plan at full cost and you were not eligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application.

The September 18, 2016 enrollment notice confirming your enrollment in your silver-level qualified health plan at full cost and without APTC, effective October 1, 2016, is AFFIRMED.

The October 20, 2016 eligibility redetermination notice finding you eligible to purchase a qualified health plan at full cost and not eligible for APTC based on your tax filing status of not filing taxes, effective December 1, 2016, is AFFIRMED.

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).

Your case is RETURNED to NYSOH to MODIFY your ineligibility for APTC to October 1, 2016 and to notify you accordingly.

You were not eligible to receive APTC, effective October 1, 2016, because you did not provide documentation to confirm your household's income within the required timeframe. Your new eligibility to purchase a qualified health plan at full cost is being modified to take effect October 1, 2016.

You again became eligible to purchase a qualified health plan at full cost, effective December 1, 2016, and were no longer eligible for APTC because you will not be filing taxes in 2016, which is required to be eligible for APTC.

Legal Authority

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

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&etumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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