



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

Notice of Decision

Decision Date: May 2, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012870

[REDACTED]

Dear [REDACTED]

On February 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 19, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: May 2, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012870



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 you and your spouse's eligibility for advance payments of the premium tax credit (APTC) ended effective November 1, 2016?

Procedural History

On June 14, 2016, NYSOH issued a notice of eligibility determination stating, in relevant part, that you and your spouse were conditionally eligible to receive up to \$256.00 in APTC, effective July 1, 2016. The notice further directed you to provide documentation confirming your citizenship status and Social Security number, and your household's income by September 11, 2016.

On June 14, 2016, NYSOH issued an enrollment notice confirming, in relevant part, that you and your spouse were enrolled in a qualified health plan (QHP), with a premium of \$492.19 per month, effective July 1, 2016.

On September 18, 2016, your NYSOH account was updated.

On September 19, 2016, NYSOH issued an eligibility determination notice stating that you were conditionally eligible and your spouse was eligible to purchase a QHP at full cost, effective as of November 1, 2016. The notice stated that you and your spouse were not eligible to receive financial assistance because NYSOH did not receive the income documentation needed to verify the income listed in your application.

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On September 19, 2016, NYSOH issued an enrollment notice confirming, in relevant part, that you and your spouse were enrolled in a QHP, with \$0.00 of APTC applied to your monthly health insurance premium.

On October 27, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your and your spouse's APTC.

On November 29, 2016, additional documentation was uploaded to your NYSOH account (_____).

On February 13, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, and the record was left open until February 20, 2017, to allow you to submit supporting documents.

Additional documentation was not received by the Appeals Unit within the time allotted. The record is complete and closed.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified that you were appealing the discontinuance of your and your spouse's financial assistance toward your QHP premiums.
- 2) You testified, and your account indicates, that you receive all of your notices from NYSOH by regular mail.
- 3) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 4) According to your NYSOH account, you faxed documentation to NYSOH on November 14, 2016. You faxed:
 - (a) A letter stating that your spouse is the sole income provider for your household;
 - (b) An illegible Social Security card;
 - (c) Your household's 2015 Form 1040 U.S. Individual Income Tax Return(_____).
- 5) You first testified that the documentation was faxed to NYSOH on November 14, 2016 because you were not informed that your household's eligibility for financial assistance was only conditional and you needed to provide documentation of your household's income.

- 6) Secondly, you testified that you did receive a notice from NYSOH requesting additional income documentation. That you spoke with a NYSOH representative on September 11, 2016, and faxed the necessary documentation in September 2016.
- 7) Thirdly, you testified you spoke with a NYSOH representative on September 11, 2016, and was given a 30-day extension to submit the income documentation. Subsequently, you contacted NYSOH in October 2016 and notified a representative that you were granted an extension to file your federal income tax return. You then submitted the documentation in November 2016.
- 8) According to your NYSOH account, on September 18, 2016, your account was updated, and you and your spouse were found no longer eligible for APTC as of November 1, 2016.
- 9) You testified that you are seeking reinstatement of your financial assistance.
- 10) You testified that you are not sure what months you and your spouse received financial assistance toward your QHP premiums.
- 11) During the hearing, the Hearing Officer directed you to submit: (1) your Social Security card; (2) an attestation of your 2017 household income; and (3) an itemized list of the monthly premium payments you made to your health plan. None of the documentation was submitted to NYSOH's Appeals Unit.

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)).

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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 issue under review is whether NYSOH properly determined that you and your spouse's 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 June 14, 2016 you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income before September 11, 2016.

Your testimony was inconsistent whether you received a notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. Your NYSOH account confirms, that you elected to receive notifications

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by regular mail. There is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

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.

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 date following the eligibility redetermination notice.

You provided inconsistent testimony regarding when you contacted NYSOH and when you submitted income documentation to NYSOH. Based on the available record, you did not submit documentation to NYSOH before November 14, 2016. Therefore, you did not submit satisfactory documentary evidence to NYSOH within 90 days to resolve the inconsistency.

Accordingly, your eligibility for APTC should have ended as of October 1, 2016, the month following the September 19, 2016, eligibility redetermination.

Therefore, the September 19, 2016, eligibility determination notice 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.

During the hearing, you testified that you did not know what months the APTC was applied to your and your spouse's QHP. You were directed to provide the NYSOH Appeals Unit with an itemized list of the health insurance payments that were made to your health plan. However, you failed to provide that documentation. Accordingly, your APTC should have only been effected as of October 1, 2016, the month following the September 19, 2016, eligibility redetermination. NYSOH Appeals Unit does not have authority to hear issues involving QHP billing and payments. Therefore, your case is RETURNED to Plan Management in order to investigate whether or not your plan is incorrectly billing you for months when you should have been receiving APTC.

Decision

The September 19, 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.

Your case is RETURNED to Plan Management in order to investigate whether your plan has correctly billed you for the months when you and your spouse should have been receiving APTC.

Effective Date of this Decision: May 2, 2017

How this Decision Affects Your Eligibility

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

Your case is returned to Plan Management in order to investigate whether your plan has correctly billed you for the months when you and your spouse should have been receiving APTC.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace 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 Federal Marketplace. 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 have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

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).

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 19, 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.

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

Your case is returned to Plan Management in order to investigate whether your plan has correctly billed you for the months when you and your spouse should have been receiving 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 okyerε 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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