



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

Notice of Decision

Decision Date: April 05, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012878

[REDACTED]

Dear [REDACTED],

On February 15, 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 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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NY State of Health Account ID: [REDACTED]
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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 properly determine that your eligibility for advance payments of the premium tax credit ended effective November 1, 2016?

Did NY State of Health properly determine that you remained ineligible for APTC, effective November 1, 2016?

Procedural History

On February 3, 2016, NY State of Health (NYSOH) issued an eligibility determination notice stating that you were eligible to receive up to \$237.00 in advance payments of the premium tax credit (APTC) and cost-sharing reductions, for a limited time, effective March 1, 2016. The notice directed you to provide documentation confirming your household income before May 2, 2016.

Also on February 3, 2016, NYSOH issued an enrollment notice confirming your enrollment in a platinum-level qualified health Plan (QHP) with a monthly premium of \$488.10 after your monthly APTC of \$237.00 was applied, effective January 1, 2016.

On September 18, 2016, NYSOH issued an eligibility redetermination notice stating that you were newly eligible to purchase a QHP at full cost, effective November 1, 2016. The notice stated that you were not eligible to receive APTC or cost-sharing reductions because NYSOH did not receive the income

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documentation needed to verify the income listed in your application by the deadline.

Also on September 18, 2016, NYSOH issued an enrollment notice confirming your enrollment in a platinum-level QHP with an increased monthly premium to the full cost of \$725.10 per month.

On October 14, 2016, NYSOH issued an eligibility redetermination notice, based on your October 13, 2016 updated application, stating that you were newly eligible to enroll in a full price QHP, effective November 1, 2016. That notice also stated that you are not eligible for a tax credit and cost sharing reduction because APTC was paid to your health insurance company to reduce your premium costs in a prior year and NYSOH is unable to tell if a federal tax return was filed for that year.

On October 27, 2016, you spoke to NYSOH's Account Review Unit and appealed that redetermination insofar as you were no longer eligible for APTC.

On December 14, 2016, NYSOH issued an eligibility redetermination notice, based on your December 13, 2016 updated application, stating that you were eligible to receive up to \$303.00 in APTC and cost-sharing reductions if you select a silver level QHP, for a limited time, effective January 1, 2017. The notice further directed you to provide documentation confirming your household income before March 13, 2017.

Also on December 14, 2016, NYSOH issued an enrollment notice confirming your enrollment in a platinum-level QHP with a monthly premium of \$527.41 per month, effective January 1, 2017.

On February 15, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing held open until March 2, 2017, to allow you to submit supporting documents.

On February 27, 2017, you submitted proof of filing your tax return in the form of an Account Transcript from the IRS, along with your 2015 income tax return (see Documents [REDACTED], [REDACTED] and [REDACTED]). That same day, this document was made part of the record as "Appellant's Exhibit A" and the record was closed.

Findings of Fact

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

- 1) According to your NYSOH account and your testimony, you receive all of your notices from NYSOH by regular mail.

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- 2) You testified that you did not receive any notices stating that your eligibility was only conditional and that you needed to provide documentation of your income.
- 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 were determined conditionally eligible for APTC on February 3, 2016, with an effective date of January 1, 2016.
- 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 testified that you did not know that you needed to submit documentation of income until you received a cancellation notice from your insurance company stating that you had lost your tax credit as of October 1, 2016.
- 7) According to your NYSOH account, you updated the income information in your NYSOH account on October 13, 2016 and were found eligible for a full price QHP effective November 1, 2016. This was because as of that date, NYSOH was unable to tell if a federal tax return was filed for that year.
- 8) You testified that you were told by a NYSOH representative that you needed to submit proof of income but that you did not feel comfortable uploading your tax return online. You were told by a NYSOH representative that they could get the information they needed through the IRS.
- 9) You testified that you did file your 2015 income tax return, but you filed it via regular mail because you do not like doing anything on the computer.
- 10) On February 27, 2017, you submitted proof of filing your tax return in the form of an Account Transcript from the IRS, along with your 2015 Income tax return (see Documents [REDACTED], [REDACTED] and [REDACTED]). These documents reflect that you filed an extension to file your tax return on April 15, 2016 and subsequently the IRS received and filed your completed tax return on October 16, 2016.
- 11) You are seeking reinstatement of your APTC for October 2016 through December 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)).

NYSOH may not authorize APTC when it was paid on behalf of the tax filer or it's spouse, for a year which the tax data would be utilized for verification of household income and size, and that tax filer and his spouse did not file a tax return for that 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 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

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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 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 notice issued on February 3, 2016, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your income before May 2, 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. As such, the February 3, 2016 eligibility determination notice is deemed to have been properly sent by NYSOH.

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.

Accordingly, your and your spouse's 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 your monthly APTC ended as of October 1, 2016.

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The sole remaining issue is whether NYSOH properly determined that you remained ineligible for APTC effective November 1, 2016.

According to your NYSOH account, you were enrolled in a platinum-level QHP beginning January 1, 2016 at monthly premium rate of \$488.10, after applying a monthly APTC of \$237.00.

On October 13, 2016, NYSOH received an update to your application for health insurance.

On October 14, 2016, an eligibility redetermination notice was issued stating that you were eligible to purchase a full cost QHP through NYSOH, effective November 1, 2016. This was because NYSOH had received information that APTC had been paid on your behalf for a year which you did not file a tax return. On that day, NYSOH received information that you had not filed a tax return for 2015. However, this information was not wholly accurate.

On February 27, 2017, you submitted proof of filing your tax return in the form of an Account Transcript from the IRS, along with your 2015 income tax return (see Documents [REDACTED], [REDACTED] and [REDACTED]). These documents reflect that you filed a timely extension to file your tax return on April 15, 2016 and subsequently the IRS received and filed your completed tax return on October 16, 2016.

Any changes in APTC are to be made effective the date following the eligibility redetermination notice. Had you properly been determined eligible for APTC in the October 14, 2016 eligibility redetermination notice, your APTC would have gone into effect on November 1, 2016.

Therefore, NYSOH's October 14, 2016 eligibility redetermination notice is MODIFIED to reflect that you are eligible to receive up to \$237.00 per month in APTC, effective November 1, 2016.

The October 14, 2016 enrollment notice is MODIFIED to reflect that your APTC of \$237.00 per month applies as of November 1, 2016.

Your case is RETURNED to NYSOH to apply your APTC of \$273.00 per month as of November 1, 2016.

Decision

The September 18, 2016 eligibility redetermination notice is MODIFIED to state that your monthly APTC ended as of October 1, 2016.

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The October 14, 2016 eligibility determination notice is MODIFIED to reflect that you are eligible to receive up to \$237.00 per month in APTC, effective November 1, 2016.

The October 14, 2016 enrollment notice is MODIFIED to reflect that your APTC of \$237.00 per month applies as of November 1, 2016.

Your case is RETURNED to NYSOH to apply your APTC of \$273.00 per month as of November 1, 2016, and to notify you accordingly.

If applicable, any corrections made as a result of the directions in this Decision need to be documented on revised 1095-A forms for 2016.

Effective Date of this Decision: April 05, 2017

How this Decision Affects Your Eligibility

Your eligibility for up to \$237.00 per month in APTC during the months of November 2016 and December 2016 is to be reinstated. NYSOH will notify you once this has been done.

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 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 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 your monthly APTC ended as of October 1, 2016.

The October 14, 2016 eligibility determination notice is MODIFIED to reflect that you are eligible to receive up to \$237.00 per month in APTC, effective November 1, 2016.

The October 14, 2016 enrollment notice is MODIFIED to reflect that your APTC of \$237.00 per month applies as of November 1, 2016.

Your case is RETURNED to NYSOH to apply your APTC of \$273.00 per month as of November 1, 2016, and to notify you accordingly.

If applicable, any corrections made as a result of the directions in this Decision need to be documented on revised 1095-A forms for 2016.

Your eligibility for up to \$237.00 per month in APTC during the months of November 2016 and December 2016 is to be reinstated. NYSOH will notify you once this has been done.

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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