



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

Notice of Decision

Decision Date: April 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012983

[REDACTED]

Dear [REDACTED],

On February 9, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: April 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012983



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 October 1, 2016?

Procedural History

On December 8, 2015, NYSOH issued an eligibility determination notice stating that you were conditionally eligible to receive up to \$261.00 in advance payments of the premium tax credit (APTC) and conditionally eligible to receive cost-sharing reductions, effective January 1, 2016. The notice further directed you to provide documentation confirming your income before March 6, 2016.

Also on December 8, 2015, NYSOH issued a notice confirming your enrollment in a silver-level qualified health plan with APTC and cost-sharing reductions, effective January 1, 2016.

On September 18, 2016, NYSOH issued an eligibility redetermination notice stating that you were newly eligible to purchase a qualified health plan 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 documentation needed to verify the income listed in your application.

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

On October 22, 2016, you updated your application for financial assistance.

On October 23, 2016, NYSOH issued an eligibility redetermination notice stating that you were eligible to enroll in the Essential Plan, effective December 1, 2016.

Also on October 23, 2016, NYSOH issued a disenrollment notice stating that your silver-level qualified health plan coverage would end November 30, 2016.

Also on October 23, 2016, NYSOH issued an enrollment notice confirming your enrollment in an Essential Plan effective December 1, 2016.

On November 1, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the months of October 2016 and November 2016.

On February 9, 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) According to your NYSOH account and testimony, you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you received an electronic alert notifying you of a notice in your NYSOH account; however, when you logged on there were no notices in your inbox.
- 3) You further testified that you did not know that your eligibility was only conditional and that you needed to provide documentation of your income.
- 4) Your NYSOH account indicates that on September 17, 2016, your application was run systematically and you were found no longer eligible for APTC as of November 1, 2016.
- 5) You testified that you learned you that you had lost your APTC when your health plan contacted you and said you would be terminated

unless you paid the October 2016 and November 2016 full monthly premiums.

- 6) You testified that when you contacted NYSOH about losing your APTC, you were told that you had two open accounts with NYSOH: [REDACTED] and [REDACTED]
- 7) You testified that you did not know you had two open accounts and that when you logged on to [REDACTED], after receiving an email alert, there were no notices showing in your in-box.
- 8) You testified that, on October 22, 2016, with the assistance of a NYSOH representative, you could log on to the correct open account and submit an updated application for financial assistance.
- 9) You submitted income documentation to NYSOH on October 24, 2016 and this proof of income was verified by NYSOH on November 9, 2016.
- 10) According to your NYSOH account and your testimony, you were enrolled in an Essential Plan effective December 1, 2016.
- 11) You testified that you paid the health plan the full premium costs for the months of October 2016 and November 2016.
- 12) You testified that you do not have any months that you were without health coverage. You testified that you did not incur any medical bills during these months.
- 13) According to the Health Insurance Marketplace Statements for 2016, Forms 1095-A, in your NYSOH account, APTC was applied for the months of January 2016 through September 2016, and you paid full monthly premiums for October 2016 and November 2016 (see Documents [REDACTED] and [REDACTED]).
- 14) You testified that you are seeking reinstatement of your APTC for the months of October 2016 and November 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 individual's 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)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual when a notice has been posted to his or her account and send a notice

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by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your eligibility for APTC ended effective October 1, 2016.

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.

In the eligibility determination issued on December 8, 2015, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income before March 6, 2016.

The record reflects that NYSOH did not receive the requested income documentation before the deadline.

However, you testified that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that while you did receive electronic notices, that you were logging onto a second NYSOH account under your name and you did not see any eligibility determination notices that informed you that your eligibility for APTC was only conditional and that you needed to submit documentation to confirm your income.

There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation, that it could not be delivered, or that the notice was later sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit documentation of your income in order to confirm your eligibility for APTC.

The record reflects that you paid the health plan the full monthly premiums for the months of October 2016 and November 2016, after your APTC eligibility was terminated effective October 31, 2016 by NYSOH's system. Further, according to your NYSOH account and your testimony, you were determined eligible for the Essential Plan and enrolled in an Essential Plan effective December 1, 2016.

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You testified that you did not have any gaps in health coverage nor incur any medical bills during October 2016 and November 2016. You testified that you are only seeking to have APTC reinstated for the months of October 2016 and November 2016 so that your coverage will be affordable.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the September 18, 2016 eligibility determination stating that you are no longer eligible for APTC because you failed to submit documentation is RESCINDED.

In addition, the September 18, 2016 enrollment confirmation notice is MODIFIED to state that you were enrolled in a silver-level qualified health plan, effective January 1, 2016, with APTC of \$261.00 to be applied monthly.

Also, the October 23, 2016 disenrollment notice stating that your silver-level qualified health plan coverage is MODIFIED to state your coverage with APTC of \$261.00 applied per month will end November 30, 2016.

Your case is RETURNED to NYSOH to reinstate your APTC for the months of October 2016 and November 2016, and to notify you accordingly.

This change necessarily requires that the 1095-A for October 2016 and November 2016 be corrected by NYSOH to reflect that APTC was applied in October 2016 and November 2016.

Decision

The September 18, 2016 eligibility determination notice is RESCINDED.

The September 18, 2016 enrollment confirmation notice is MODIFIED to state that you were enrolled in a silver-level qualified health plan, effective January 1, 2016, with APTC of \$261.00 to be applied monthly.

The October 23, 2016 disenrollment notice stating that your silver-level qualified health plan coverage is MODIFIED to state your coverage with APTC of \$261.00 applied per month will end November 30, 2016.

Your case is RETURNED to NYSOH to reinstate your APTC for the months of October 2016 and November 2016, and to notify you accordingly.

Reinstatement of APTC for these two months will also require that NYSOH issue corrected 1095-A forms for October 2016 and November 2016.

Effective Date of this Decision: April 3, 2017

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How this Decision Affects Your Eligibility

NYSOH erred in terminating your APTC effective October 1, 2016, without giving proper notice.

Your case is being sent back to NYSOH to reinstate your APTC for the months of October 2016 and November 2016. NYSOH will notify you once this has been done.

NYSOH will also issue corrected 1095-A forms for 2016 to reflect that APTC has been applied to October 2016 and November 2016 monthly premiums.

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:

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).

NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The September 18, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your APTC for the months of October 2016 and November 2016, and to notify you accordingly.

Reinstatement of APTC for these two months will also require that NYSOH issue corrected 1095-A forms for 2016.

NYSOH erred in terminating your APTC effective October 1, 2016, without giving proper notice.

Your case is being sent back to NYSOH to reinstate your APTC for the months of October 2016 and November 2016. NYSOH will notify you once this has been done.

NYSOH will also issue corrected 1095-A forms for 2016 to reflect that APTC has been applied to October 2016 and November 2016 monthly premiums.

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 مجانًا.

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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।

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. y&btumi 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۔

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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.