



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

Notice of Decision

Decision Date: April 25, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013713

[REDACTED]

Dear [REDACTED]

On March 20, 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

Decision Date: April 25, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013713



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 were eligible for a reduced amount of advance payment of the premium tax credit (APTC) as of October 1, 2016?

Procedural History

On February 13, 2016, NYSOH issued an eligibility determination notice stating that you were conditionally eligible to receive up to \$213.00 in APTC and cost-sharing reductions, effective March 1, 2016. The notice also directed you to provide documentation confirming your income before May 12, 2016.

Also on February 13, 2016, NYSOH issued an enrollment notice confirming your enrollment in a Qualified Health Plan (QHP) effective January 1, 2016, with APTC applied as of February 1, 2016.

On September 18, 2016, NYSOH issued an eligibility redetermination notice stating that you were eligible to receive up to \$61.00 in APTC. The notice stated that your APTC had been adjusted because you did not provide satisfactory proof of your household income within the required time frame. NYSOH used income information federal and state data sources to determine your amount of financial assistance. This eligibility was effective November 1, 2016.

Also on September 18, 2016, NYSOH issued an enrollment notice confirming your enrollment in a QHP with \$61.00 of APTC applied to your premium as of October 1, 2016.

On October 18, 2016, NYSOH issued a renewal notice stating that you were re-enrolled in your current QHP for another year with \$167.49 of APTC applied to your premium, effective January 1, 2017.

On December 1, 2016, you spoke to NYSOH's Account Review Unit and appealed the reduction of your APTC for the month of December 2016.

On December 2, 2016, NYSOH issued an enrollment notice confirming your enrollment in a QHP with \$167.49 of APTC to be applied to your premium as of January 1, 2017.

On March 20, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open until April 5, 2017 to allow you time to submit billing statements from your health plan. As of April 5, 2017, no documentation was received 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 your notices from NYSOH by regular mail.
- 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 household's income.
- 3) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable mail.
- 4) Your NYSOH account indicates that on September 17, 2016, a systematic run of your application was performed and you were found eligible for a reduced amount of APTC as of November 1, 2016.
- 5) According to the September 18, 2016 enrollment notice, the reduced amount of \$61.00 in APTC was applied as of October 1, 2016.
- 6) You testified that you did not know your APTC had been reduced until you received a large bill from your health plan.

- 7) You testified that you called your health plan and NYSOH and were told by both entities that there was an error and that you needed to appeal to fix it.
- 8) According to Form 1095-A for 2016, you received \$213.00 in APTC from February 2016 through September 2016, and received the reduced amount of \$61.00 in APTC for the months of October 2016 through December 2016 (see Document [REDACTED]).

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 QHP 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 QHP, 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)).

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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 first issue under review is whether NYSOH properly determined that you were eligible for a reduced amount of advance payment of the premium tax credit (APTC), 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 February 13, 2016, you were advised that your eligibilities for APTC was only conditional, and that you needed to confirm your household's income before May 12, 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 13, 2016 notice is deemed to have been mailed.

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. Accordingly, NYSOH reduced your APTC to \$61.00, effective November 1, 2016 and applied the reduced amount as of October 1, 2016, based on information obtained from federal and state data sources.

Since any changes in APTC are to be made effective the first day of the month following the eligibility redetermination, which in your case was September 18, 2016, your adjusted APTC should have taken effect on October 1, 2016. The

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documentary evidence in the record reflects that the reduced amount of \$61.00 in APTC was applied as of October 1, 2016.

Therefore, the September 18, 2016 eligibility redetermination notice is MODIFIED to state that your eligibility to receive up to \$61.00 per month in APTC began as of October 1, 2016.

You testified that you were unsure what months your reduced APTC had been applied and requested time to submit your health plan billing statements. Although you did not submit any documents by April 5, 2017 as directed, your NYSOH account contains a Form 1095-A for 2016, which shows the reduced APTC amount of \$61.00 was applied in the months of October 2016, November 2016, and December 2016.

Since it is now well past 2016, NYSOH is not being required to address your request for retroactive APTC during those months. Rather, at the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year, which may also result in a tax credit or reduction in tax liability if the full amount of APTC to which a person is entitled is not taken throughout the year. Conversely, if a person received more APTC than their maximum entitlement, based on gross income, they might owe the excess as an additional income tax liability. Therefore, the amount of APTC to which you were entitled can be reconciled at the time you file your 2016 federal tax return.

Decision

The September 18, 2016 notice of eligibility redetermination is MODIFIED to state that your eligibility to receive up to \$61.00 per month in APTC began as of October 1, 2016.

The amount of APTC to which you were entitled can be reconciled at the time you file your 2016 federal tax return.

Effective Date of this Decision: April 25, 2017

How this Decision Affects Your Eligibility

NYSOH properly reduced the amount of your APTC based on federal and data sources because you did not provide documentation of your household's income.

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Your adjusted APTC of \$61.00 properly began as of October 1, 2016, and is not changed by this Decision.

Your APTC for the months in which it was reduced in 2016 can be reconciled when you file your 2016 federal income tax return.

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 QHPs, 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

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The September 18, 2016 notice of eligibility redetermination is MODIFIED to state that your eligibility to receive up to \$61.00 per month in APTC began as of October 1, 2016.

The amount of APTC to which you were entitled can be reconciled at the time you file your 2016 federal tax return.

NYSOH properly reduced the amount of your APTC based on federal and data sources because you did not provide documentation of your household's income.

Your adjusted APTC of \$61.00 properly began as of October 1, 2016, and is not changed by this Decision.

Your APTC for the months in which it was reduced in 2016 can be reconciled when you file your 2016 federal income tax return.

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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