



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

Notice of Decision

Decision Date: April 6, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013884

[REDACTED]

Dear [REDACTED],

On March 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 17, 2016 and November 29, 2016 eligibility redetermination and enrollment confirmation notices.

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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: April 6, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013884

[REDACTED]

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 were ineligible for advance payments of the premium tax credit (APTC) effective January 1, 2017?

Procedural History

On November 23, 2015, NYSOH issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to share in up to \$274.00 in APTC if you enrolled in a silver level qualified health plan, effective January 1, 2016.

Also on November 23, 2015, NYSOH issued an enrollment notice confirming your selection of a silver-level qualified health plan (QHP) with a monthly premium of \$631.54 after your APTC of \$274.00 was applied, effective January 1, 2016.

On November 17, 2016 and November 29, 2016, NYSOH issued two eligibility determination notices, based on your November 16, 2016 and November 28, 2016 updated applications, stating that you and your spouse were newly eligible to purchase a QHP at full cost. These notices stated that you and your spouse were not eligible to receive APTC or cost-sharing reductions because APTC was paid to your health insurance company to reduce your premium costs in a prior year and NYSOH was unable to tell if a federal tax return was filed for that year. This new eligibility was effective January 1, 2017.

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Also on November 17, 2016 and November 29, 2016, NYSOH issued two enrollment notices, based on your November 16, 2016 and November 28, 2016 updated plan selections, confirming your and your spouse's enrollment in the silver-level QHP, at the increased monthly premium amount of \$1,036.82 (full cost), effective January 1, 2017.

On December 8, 2016, you spoke to NYSOH's Account Review Unit and appealed your and your spouse's ineligibility for APTC. You also requested that your APTC subsidy be continued during the appeal process.

On December 15, 2016, NYSOH issued an eligibility redetermination notice stating that you and your spouse were eligible to share in APTC in the form of Aid to Continue, effective January 1, 2017.

Also on December 15, 2016, NYSOH issued an enrollment notice confirming your selection of a silver-level QHP with a monthly premium of \$1,036.82 before applying your APTC of \$447.00, effective January 1, 2017.

On January 31, 2017, NYSOH issued an enrollment notice confirming your selection of a silver-level QHP with a monthly premium of \$589.82 after applying your APTC of \$447.00, effective February 1, 2017.

On March 13, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to April 13, 2017, to allow you to submit supporting documents.

On March 25, 2017, you submitted your IRS Transcript, which was made part of the record as "Appellant's Exhibit A." The record is now closed.

Findings of Fact

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

- 1) You and your spouse were determined eligible for APTC on November 23, 2015, with a January 1, 2016 effective date of eligibility, enrollment, and application of APTC through December 31, 2016.
- 2) You and your spouse were redetermined no longer eligible for APTC as of January 1, 2017. This was because APTC was paid to your health insurance company to reduce your premium costs in a prior year and NYSOH was unable to tell if a federal tax return was filed for that year.
- 3) Your NYSOH account reflects that APTC was paid on your behalf in 2015.

- 4) You testified that you are seeking reinstatement of your APTC as of January 1, 2017.
- 5) On March 25, 2017, you submitted to NYSOH a copy your 2015 IRS Transcript which reflects that the IRS received your extension to file your 2015 income tax return on April 14, 2016. It further reflects that the IRS received your 2015 income tax return on August 28, 2016, but that it was not filed by the IRS until October 24, 2016 (see Appellant's Exhibit A).
- 6) You and your spouse were subsequently found eligible for an APTC of up to \$447.00 per month, in the form of Aid to Continue, for coverage beginning February 1, 2017.

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 200% 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 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 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

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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 were ineligible for APTC effective January 1, 2017.

The record reflects that you and your spouse were enrolled in a silver-level QHP beginning January 1, 2016 at monthly premium rate of \$631.54, after your monthly APTC of \$227.00 was applied as of that month.

On November 16, 2016 and November 28, 2016, NYSOH received updates to your application for health insurance.

Also on November 16, 2016 and November 28, 2016, NYSOH received information that you had not filed a tax return for 2015.

Based on this information, on November 17, 2016 and November 29, 2016, NYSOH issued two eligibility redetermination notices stating that you and your spouse were eligible to purchase a full cost qualified health plan through NYSOH, effective January 1, 2017. The reason stated was because NYSOH had received information that APTC had been paid on your behalf for a year in which you and your spouse did not file a tax return.

However, the information regarding your previous year's tax filings that NYSOH received on November 16, 2016 and November 28, 2016 was erroneous. You testified, and submitted documentation to show, that you filed your 2015 tax return in late August of 2016 after having timely filed for an extension on April 14, 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 November 17, 2016 eligibility redetermination notice, your APTC would have gone into effect on December 1, 2016. However, the record reflects that your APTC for 2016 in the amount of \$274.00 was applied to that month (see IRS Form 1095-A, Health Insurance Marketplace Statement, Document [REDACTED]). As such and because the next month in which you and your

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spouse did not have APTC as of January 1, 2017, it is concluded that the application of APTC for that month needs to be addressed.

Therefore, NYSOH's November 17, 2016 eligibility determination notice is MODIFIED to reflect that you and your spouse are eligible to receive up to \$447.00 per month in APTC, effective January 1, 2017.

The November 17, 2016 enrollment notice is MODIFIED to state that your and your spouse's monthly APTC of \$447.00 applies as of January 1, 2017.

Furthermore, the November 29, 2016 eligibility redetermination and enrollment notices are RESCINDED since they similarly and inaccurately state that you and your spouse were ineligible for APTC at that time since you had not filed a prior tax return.

Your case is RETURNED to NYSOH to apply you and your spouse's APTC of \$447.00 per month as of January 1, 2017, and to notify you accordingly.

Decision

The November 17, 2016 eligibility redetermination notice is MODIFIED to state that you and your spouse are eligible to receive up to \$447.00 per month in APTC, effective January 1, 2017.

The November 17, 2016 enrollment notice is MODIFIED to state that your and your spouse's APTC of \$447.00 per month applies as of January 1, 2017.

The November 29, 2016 eligibility redetermination and enrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to apply your and your spouse's monthly APTC of \$447.00 as of January 1, 2017, and to notify you accordingly.

Effective Date of this Decision: April 6, 2017

How this Decision Affects Your Eligibility

You and your spouse are eligible to share in up to \$447.00 per month in APTC beginning as of January 1, 2017.

Your case is being sent back to NYSOH to apply your and your spouse's shared APTC in that amount as of January 1, 2017. NYSOH will notify you once this change has been effectuated.

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 are currently receiving APTC in the form of Aid to Continue. As a result of this Decision, you and your spouse will continue to receive APTC of \$447.00 per month with full eligibility, effective January 1, 2017.

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 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:

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- 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 November 17, 2016 eligibility redetermination notice is MODIFIED to state that you and your spouse are eligible to receive up to \$447.00 per month in APTC, effective January 1, 2017.

The November 17, 2016 enrollment notice is MODIFIED to state that your and your spouse's APTC of \$447.00 per month applies as of January 1, 2017.

The November 29, 2016 eligibility redetermination and enrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to apply your and your spouse's monthly APTC of \$447.00 as of January 1, 2017, and to notify you accordingly.

You and your spouse are eligible to share in up to \$447.00 per month in APTC beginning as of January 1, 2017.

Your case is being sent back to NYSOH to apply your and your spouse's shared APTC in that amount as of January 1, 2017. NYSOH will notify you once this change has been effectuated.

You are currently receiving APTC in the form of Aid to Continue. As a result of this Decision, you and your spouse will continue to receive APTC of \$447.00 per month with full eligibility, effective January 1, 2017.

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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