



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

Notice of Decision

Decision Date: May 9, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013944

[REDACTED]

Dear [REDACTED],

On May 2, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 12, 2016 eligibility determination notice and December 2, 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).

This page intentionally left blank.



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

Decision

Decision Date: May 9, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013944



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 December 1, 2016?

Did NYSOH properly determine that you and your spouse's eligibility for advance payments of the premium tax credit resumed effective January 1, 2017?

Procedural History

On May 25, 2016, NYSOH issued a notice of eligibility determination stating that you, your spouse and your child were conditionally eligible to receive up to \$583.00 per month in advance payments of the premium tax credit (APTC), effective July 1, 2016. The notice directed you to provide documentation confirming your income before August 22, 2016.

Also on May 25, 2016, NYSOH issued a notice confirming your family's enrollment in a qualified health plan (QHP) with APTC, effective January 1, 2016.

On May 27, 2016, NYSOH received (1) a facsimile containing a letter issued by your employer, [REDACTED] reflecting your net pay received between March 31, 2016 and May 12, 2016, (2) an undated letter issued by your spouse's employer, [REDACTED] reflecting deposits into his business checking account, and the checks written therefrom.

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).

On June 2, 2016, NYSOH issued a notice stating that the documents you provided were not sufficient to confirm your family's eligibility for health insurance. You were requested to provide additional income documentation to resolve the inconsistency.

On June 7, 2016, NYSOH received a letter from your employer, dated June 6, 2016, reflecting your gross salary received between April 14, 2016 and May 26, 2016.

On June 10, 2016, NYSOH issued a notice stating that the documents you provided were not sufficient to confirm your family's eligibility for health insurance. You were requested to provide additional income documentation to resolve the inconsistency.

On August 4, 2016, NYSOH reran your household's eligibility for financial assistance.

On August 5, 2016, NYSOH issued a notice of eligibility determination stating that you, your spouse and your child were conditionally eligible to receive up to \$583.00 per month in APTC, effective September 1, 2016. The notice directed you to provide documentation confirming your income before August 22, 2016.

Also on August 5, 2016, NYSOH issued a notice confirming your family's enrollment in a qualified health plan (QHP) with APTC, effective January 1, 2017.

On August 25, 2016, NYSOH received a letter issued by your child's former employer, dated August 25, 2016, reflecting that his last date of employment was August 1, 2016.

On September 1, 2016, NYSOH issued a notice stating that the documents you provided were not sufficient to confirm your family's eligibility for health insurance. You were requested to provide additional income documentation to resolve the inconsistency by October 6, 2016. The notice cautioned that you may lose your insurance or receive less help paying for your coverage.

On November 11, 2016, NYSOH reran your household's eligibility for financial assistance.

On November 12, 2016, NYSOH issued an eligibility determination notice stating that you, your spouse, and your child were newly eligible to purchase a QHP at full cost. The notice stated that you were not eligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective December 1, 2016.

Also on November 12, 2016, NYSOH issued an enrollment confirmation notice stating that you, your spouse, and your child were enrolled in a qualified health plan with \$0.00 of APTC applied to the premium.

On December 1, 2016, you updated your application for financial assistance. In this application, you removed your oldest child from seeking insurance under your NYSOH account.

On December 2, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to receive up to \$318.00 in APTC for a limited time, effective January 1, 2017.

On December 12, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the month of December 2016.

On March 3, 2017, NYSOH received a letter from you, dated February 27, 2017, containing a copy of your 2016 Federal tax return.

On May 2, 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) You testified, and your account indicates, that you receive all of your notices from NYSOH by regular mail.
- 2) You testified that you received the notices stating that your eligibility was only conditional and that in each case you provided income documentation to help resolve the request.
- 3) Your account reflects that you provided proof of your household's income to NYSOH between May 25, 2016 through August 25, 2016; however, in each case the documentation was found to be insufficient to confirm your family's eligibility.
- 4) Your NYSOH account indicates that on November 11, 2016, your application was run and you were found no longer eligible for APTC as of December 1, 2016
- 5) You updated the income information in your NYSOH account on December 1, 2016. This application also reflects that you removed

your oldest child from seeking insurance under your account at that time.

- 6) You testified that you are seeking reinstatement of your APTC for the month of December 2016.
- 7) You testified, and your NYSOH account reflects, that you and your spouse filed a 2016 Federal tax return on February 27, 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 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 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 first issue under review is whether NYSOH properly determined that you, your spouse's, and your child's eligibility for APTC ended effective December 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 May 25, 2016, you were advised that your family's eligibility for APTC was only conditional, and that you needed to confirm your household's income before August 22, 2016.

You credibly testified that you received the notices stating that your eligibility was only conditional and that in each case you provided income documentation to help resolve the request. Your account reflects that you provided proof of your household's income to NYSOH between May 25, 2016 through August 25, 2016; however, in each case the documentation was found by NYSOH to be insufficient to confirm your family's eligibility.

We find, however, that the totality of the documentation you provided to NYSOH between May 25, 2016 through August 25, 2016 was in fact sufficient to confirm your household's income to verify your eligible at that time.

However, since the 2016 plan year had ended, the lack of a tax credit provided to you, your spouse, and your child for coverage during the month of December 2016 is properly reconciled as a credit on your 2016 Federal tax return. We, therefore, must AFFIRM the November 12, 2016 eligibility determination notice.

The second issue is whether NYSOH properly determined that you and your spouse's eligibility for APTC resumed no earlier than January 1, 2017.

On December 1, 2016, you updated the income information in your NYSOH account. This application also reflected that your oldest child was no longer seeking health insurance under your account. On December 2, 2016, a notice of eligibility redetermination was issued stating that you and your spouse were eligible to receive up to \$318.00 in APTC, effective January 1, 2017.

As stated above, any changes in APTC are to be made effective the date following the eligibility redetermination notice.

Since you updated your application on December 1, 2016, any changes in APTC should have been made effective as of January 1, 2017

Therefore, NYSOH's December 2, 2016 eligibility determination is correct and is AFFIRMED.

Decision

The November 12, 2016 eligibility determination notice is AFFIRMED.

The December 2, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: May 9, 2017

How this Decision Affects Your Eligibility

Since the 2016 plan year had ended, the lack of a tax credit provided to you, your spouse, and your child for coverage during the month of December 2016 is properly reconciled as a credit on your 2016 Federal tax return.

You and your spouse's APTC resumed 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

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).

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:

- 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 12, 2016 eligibility determination notice is **AFFIRMED**.

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).

The December 2, 2016 eligibility determination notice is AFFIRMED.

Since the 2016 plan year had ended, the lack of a tax credit provided to you, your spouse, and your child for coverage during the month of December 2016 is properly reconciled as a credit on your 2016 Federal tax return.

You and your spouse's APTC resumed 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:



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).

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।

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).

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.

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).