



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

Notice of Decision

Decision Date: April 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013961

[REDACTED]

Dear [REDACTED],

On March 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 28, 2016 and December 14, 2016 eligibility redetermination 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013961



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 not eligible for an advance payment of the premium tax credit (APTC), effective January 1, 2017?

Procedural History

On November 28, 2016, NYSOH issued a notice of eligibility determination, based on your November 27, 2016 application, stating that you and your spouse were eligible to purchase a qualified health plan at full cost, effective January 1, 2017. That notice further stated that you and your spouse were ineligible for financial assistance because APTC were made to your insurance company to reduce your premium costs in a prior year and NYSOH could not tell if you filed a federal tax return for that year.

On December 9, 2016, you submitted a written appeal of the November 28, 2016 eligibility determination, insofar as you and your spouse were ineligible for financial assistance, effective January 1, 2017.

On December 12, 2016, you spoke to NYSOH's Account Review Unit and appealed the preliminary eligibility redetermination insofar as you and your spouse were still ineligible for financial assistance, effective January 1, 2017.

On December 13, 2016, NYSOH prepared a preliminary eligibility redetermination, based on your updated application, finding you and your spouse eligible to purchase a qualified health plan at full cost, effective January 1, 2017.

On December 14, 2016, NYSOH issued a notice of eligibility redetermination, based on your December 13, 2016 updated application, stating that you and your spouse were eligible to purchase a qualified health plan at full cost, effective January 1, 2017. That notice further stated that you and your spouse were ineligible for financial assistance because APTC were made to your insurance company to reduce your premium costs in a prior year and NYSOH could not tell if you filed a federal tax return for that year.

On December 20, 2016, NYSOH issued an eligibility redetermination notice stating that you and your spouse were eligible for APTC with cost sharing reductions for a limited time, effective January 1, 2017, on an aid to continue basis until a decision is made on your appeal.

Also on December 20, 2016, NYSOH issued a notice confirming your enrollment in a silver-level qualified health plan. That notice further stated that APTC of \$492.00 would be applied as of January 1, 2017.

On December 28, 2016, you submitted a copy of your IRS transcript to NYSOH, reflecting that your 2015 income tax return was received by the IRS on December 9, 2016 (see Document [REDACTED]).

On March 20, 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 submitted applications to NYSOH for financial assistance on November 27, 2016 and December 12, 2016.
- 2) On December 28, 2016, you submitted to NYSOH an IRS transcript of your federal tax return for 2015 reflecting that you filed your income tax return on December 9, 2016 (see Document [REDACTED]).
- 3) You testified that you filed your extension prior to April 15, 2016, but that you filed your return late because although you created your tax return yourself, you wanted to have it reviewed by a tax professional before filing. You testified that your tax professional took too long to review it.

- 4) Your NYSOH account reflects that APTC was paid on your behalf in 2015.
- 5) You testified that you are seeking APTC as of January 1, 2017.
- 6) You and your spouse have been granted APTC in an amount of \$492.00 per month in the form of aid to continue, effective January 1, 2017.
- 7) You testified that your income information in your application was correct.

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 determine a tax filer eligible for APTC if APTC was paid on the tax filer's behalf in a previous year, and a tax return was not filed for that previous 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 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)).

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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 issue under review is whether NYSOH properly determined that that you and your spouse were not eligible to receive APTC, effective January 1, 2017.

The record shows that November 27, 2016 and December 13, 2016 you updated the information in your NYSOH account and submitted requests for financial assistance. On November 28, 2016 and December 14, 2016, NYSOH issued eligibility redetermination notices that in part stated you and your spouse were ineligible for financial assistance. Those notices further stated that this was because you received APTC in the past and NYSOH was unable to tell if you filed your tax return for that year.

However, on December 28, 2016, you submitted to NYSOH an IRS transcript of your federal tax return for 2015 reflecting that you filed your income tax return on December 9, 2016.

Since you filed your income tax return on December 9, 2016, which is after the November 28, 2016 eligibility redetermination notice was issued, NYSOH properly denied you and your spouse financial assistance and that notice must be AFFIRMED.

However, you did file your income tax return prior to the December 13, 2016 application and issuance of the December 14, 2016 eligibility redetermination notice. It is unclear as to the reason NYSOH could not procure this information electronically.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month. Since NYSOH improperly redetermined you and your spouse ineligible for financial assistance on

December 14, 2016, your APTC should have been applied effective January 1, 2017.

Therefore, NYSOH's December 14, 2016 eligibility redetermination notice is MODIFIED to state that yours and your spouse's APTC of \$492.00 per month is applied effective January 1, 2017.

The December 20, 2016 eligibility redetermination notice is MODIFIED to state that you and your spouse were fully eligible for APTC of up to \$492.00 per month with cost sharing reduction, effective January 1, 2017.

Decision

The November 28, 2016 eligibility redetermination notice is AFFIRMED.

The NYSOH's December 14, 2016 eligibility redetermination notice is MODIFIED to state that yours and your spouse's APTC of \$492.00 per month is applied effective January 1, 2017.

The December 20, 2016 eligibility redetermination notice is MODIFIED to state that you and your spouse were fully eligible to share in an advance payment of the premium tax credit with cost sharing reduction, effective January 1, 2017.

Effective Date of this Decision: April 10, 2017

How this Decision Affects Your Eligibility

You and your spouse are currently receiving APTC in the form of Aid to Continue. Your eligibilities to share in APTC of up to \$492.00 will continue as full eligibility as of January 1, 2017.

Yours and your spouse's enrollment in your qualified health plan and full eligibility for APTC began as of 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

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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 28, 2016 eligibility redetermination notice is **AFFIRMED**.

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The NYSOH's December 14, 2016 eligibility redetermination notice is MODIFIED to state that yours and your spouse's APTC of \$492.00 per month is applied effective January 1, 2017.

The December 20, 2016 eligibility redetermination notice is MODIFIED to state that you and your spouse were fully eligible to share in an advance payment of the premium tax credit with cost sharing reduction, effective January 1, 2017.

You and your spouse are currently receiving APTC in the form of Aid to Continue. Your eligibilities to share in APTC of up to \$492.00 will continue as full eligibility as of January 1, 2017.

Yours and your spouse's enrollment in your qualified health plan and full eligibility for APTC began as of 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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