



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

Notice of Decision

Decision Date: May 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014341

[REDACTED]

Dear [REDACTED],

On April 11, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 28, 2016 eligibility determination 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 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: May 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014341

[REDACTED]

Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine you were not eligible to receive APTC, effective February 1, 2017, because you had not filed a 2014 or 2015 federal income tax return?

Did NYSOH properly determine your coverage through your QHP became effective no sooner than February 1, 2017?

Procedural History

On December 11, 2015, NYSOH issued a notice of eligibility determination stating you were eligible to receive up to \$244.00 per month in advance payments of the premium tax credit (APTC), effective January 1, 2016. You were also eligible to receive cost-sharing reductions to help reduce your out-of-pocket expenses if you selected a silver-level Qualified Health Plan (QHP).

On December 13, 2015, NYSOH issued a notice confirming your enrollment in a QHP with APTC, effective January 1, 2016.

On October 20, 2016, NYSOH issued a notice stating it was time to renew your health coverage for the upcoming coverage year. The notice stated that based on federal and state data sources, NYSOH was unable to decide whether you qualified for financial help paying for your health coverage. The notice directed you to update your account by December 15, 2016 or you might lose the financial assistance you were receiving.

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On November 27, 2016, NYSOH issued a disenrollment notice stating your coverage through your QHP would end on December 31, 2016, because you were no longer eligible to enroll in the plan.

On December 12, 2016, you updated your application several times.

On December 13, 2016, NYSOH issued an eligibility determination notice, based on one of the updated applications submitted on December 12, 2016, stating you were eligible to enroll in the Essential Plan, for a limited time, effective January 1, 2017. The notice directed you to submit proof of your income by March 12, 2017 or you might lose your insurance or receive less help paying for your coverage.

On December 27, 2016, NYSOH received your updated application. That day a preliminary determination was prepared finding you eligible to purchase a full-cost QHP. You enrolled in a plan the same day.

Also on December 27, 2016, you spoke to NYSOH's Account Review Unit and appealed your eligibility insofar as you were not eligible for APTC. You also requested the effective date of your QHP be backdated to January 1, 2017.

On December 28, 2016, NYSOH issued an eligibility determination notice stating you were eligible to purchase a QHP at full cost, effective February 1, 2017. The notice further stated you were not eligible for a tax credit, because you said you would not be filing a tax return or were married and filing separately, or you did not file a tax return for an earlier year during which you received APTC.

Also on December 28, 2016, NYSOH issued a notice confirming your enrollment in a QHP with no APTC applied, effective February 1, 2017.

On April 11, 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 allow you to submit supporting documents.

On May 10, 2017, NYSOH received the requested documentation and it was incorporated into the record as Appellant's Exhibit #1, the record closed thereafter.

Findings of Fact

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

- 1) You testified, and your account confirms, you will file your 2017 tax return with a tax filing status of single and you will claim no dependents.

- 2) You enrolled in a QHP with APTC, effective January 1, 2016.
- 3) On October 20, 2016, NYSOH issued a notice advising you to update your account by December 15, 2016 to renew your health coverage for 2017.
- 4) On November 27, 2016, NYSOH issued a disenrollment notice indicating your coverage through your QHP would end on December 31, 2016.
- 5) On December 12, 2016, you updated the attested income information in your application five separate times with income amounts ranging from \$19,720.00 to \$29,408.00. You testified this was an accident.
- 6) Based on one of your application from December 12, 2016, indicating your anticipated income for 2017 was \$20,008.00, NYSOH determined you were conditionally eligible to enroll in the Essential Plan. Your eligibility was conditional upon NYSOH receiving proof of your income to confirm the information listed in your application.
- 7) You testified you attempted to enroll in an Essential Plan online but you were unable to.
- 8) On December 27, 2016, you contacted NYSOH and updated your application, attesting to an anticipated annual income for 2017 of \$29,408.00. You testified that amount was accurate at the time, but you had since made a large withdrawal reducing your interest income and your best estimate of your income for 2017 was \$28,250.00.
- 9) NYSOH redetermined your eligibility for financial assistance on December 27, 2016, based on the information in your updated application, and determined you were not eligible to receive APTC, because NYSOH was unable to confirm through federal and state data sources that you had filed a tax return for the 2014 and 2015 tax years.
- 10) You testified, and your account confirms, you received APTC in 2014 and 2015.
- 11) You testified that you filed tax returns for the 2014 and 2015 tax years, but that you were granted extensions for both years and you filed both tax returns late.
- 12) On May 10, 2017, NYSOH Appeals Unit received a copy of the Tax Return Transcripts from the Internal Revenue Service (IRS) establishing your tax return for the 2014 tax year was received by the

IRS on December 7, 2015 and your tax return for the 2015 tax year was received by the IRS on November 8, 2016 (██████████).

- 13) Your account indicates you enrolled in a full-cost QHP on December 27, 2016 with coverage effective February 1, 2017.
- 14) You testified you are seeking eligibility to receive APTC and a backdating of your QHP to January 1, 2017.
- 15) On January 3, 2017, you were granted Aid-to-Continue and you were enrolled in a QHP with APTC and cost-sharing reductions, effective January 1, 2017, pending the outcome of the appeal.
- 16) On December 27, 2016, NYSOH created Complaint # ██████████ pursuant to your request to backdate the coverage through your QHP to January 1, 2017. The notes from that incident indicate that a defect, "██████████ dated ██████████", "prevented consumer from enrolling in plan in correct time frame." NYSOH closed the complaint on January 4, 2017, noting that Appellant had been granted APTC/CSR effective January 1, 2017 as part of ATC for the Appeal.

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)).

People who use APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on NYSOH application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

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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 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, regardless of the day of the month the changes occurred (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The first issue under review is whether NYSOH properly determined you were not eligible to receive APTC, effective February 1, 2017, because you had not filed a 2014 or 2015 federal income tax return.

On December 27, 2016, NYSOH received your updated application for health insurance. That application listed an attested anticipated annual income for 2017 of \$29,408.00. You testified that amount was accurate at the time, but you had since made a large withdrawal reducing your interest income and your best estimate of your income for 2017 was \$28,250.00.

NYSOH redetermined your eligibility for financial assistance on December 27, 2016, based on the information in your updated application, and determined you were not eligible to receive APTC, because NYSOH was unable to confirm through federal and state data sources that you had filed a tax return for the 2014 and 2015 tax years.

Pursuant to the regulations, people who use APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income with their actual income.

You testified, and your account confirms, you received APTC in 2014 and 2015. You testified that you filed tax returns for the 2014 and 2015 tax years, but that you were granted extensions for both years and you filed both tax returns late. Although as of December 27, 2016, NYSOH was unable to confirm through federal and state data sources that you had filed a tax return for the 2014 and 2015 tax years, you submitted a copy of the Tax Return Transcripts establishing The IRS had received your tax returns for 2014 and 2015. Accordingly, the evidence establishes you filed a tax return for the 2014 and 2015 tax years.

Therefore, your case is RETURNED to NYSOH to redetermine your eligibility, as of December 27, 2016, based on the record establishing that you filed tax returns for the 2014 and 2015 tax years, and based on an attested household income for a one-person household for 2017 of \$28,250.00.

The second issue under review is whether NYSOH properly determined your coverage through your QHP became effective no sooner than February 1, 2017.

Your account indicates that on December 12, 2016, you updated the attested income information in your application five separate time with income amounts ranging from \$19,720.00 to \$29,408.00. You testified this was an accident. Based on one of your application from December 12, 2016, indicating your anticipated income for 2017 was \$20,008.00, NYSOH determined you were conditionally eligible to enroll in the Essential Plan. You were directed to pick a plan in the December 13, 2016 eligibility determination notice. You testified you

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tried to enroll in a plan online, but you were unable to. Notes in your account indicate NYSOH identified a defect in your account on December 15, 2016 that may have prevented you from enrolling in a plan at that time.

However, the evidence establishes the December 13, 2016 eligibility determination finding you eligible to enroll in the Essential Plan was based on your application listing your anticipated income for 2017 as \$20,008.00. You testified this was not accurate. Given your admission that this eligibility determination was based on inaccurate information you provided, it is concluded you should not have been permitted to enroll into a health plan based on that eligibility determination.

Your account indicates you did not contact NYSOH to correct your application until November 27, 2016. You selected a QHP for enrollment that day and your coverage through that plan became effective on February 1, 2017. You testified you are seeking to have your coverage through this plan backdated to January 1, 2017.

Pursuant to the above cited regulations, the effective date of coverage by a QHP is determined by the date on which an applicant selects a plan for enrollment. NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month. For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month.

The evidence establishes you selected your QHP on December 27, 2016. As that was after the fifteenth day of the month, your coverage through that plan properly became effective on the first day of the second following month; that is, February 1, 2017.

Accordingly, the December 28, 2016 enrollment confirmation notice stating you were enrolled in a QHP with coverage effective February 1, 2017, is correct and is AFFIRMED.

Decision

Your case is RETURNED to NYSOH to redetermine your eligibility, as of December 27, 2016, based on the record establishing you filed tax returns for the 2014 and 2015 tax years, and based on an attested household income for a one-person household for 2017 of \$28,250.00.

The December 28, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: May 18, 2017

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How this Decision Affects Your Eligibility

Your case is being sent back to NYSOH to redetermine your eligibility, as of December 27, 2016, based on the record establishing you filed tax returns for the 2014 and 2015 tax years, and based on an attested household income for a one-person household for 2017 of \$28,250.00.

You will receive an updated eligibility determination notice.

The coverage through your full-cost QHP became effective February 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

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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

Your case is RETURNED to NYSOH to redetermine your eligibility, as of December 27, 2016, based on the record establishing you filed tax returns for the 2014 and 2015 tax years, and based on an attested household income for a one-person household for 2017 of \$28,250.00.

The December 28, 2016 enrollment confirmation notice is AFFIRMED.

You will receive an updated eligibility determination notice.

The coverage through your full-cost QHP became effective February 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 मददत चाहन्छि भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोलने 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 okyer& 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 איר געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.