



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

Notice of Decision

Decision Date: May 8, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014624

[REDACTED]

Dear [REDACTED],

On May 3, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 8, 2016 eligibility determination, December 8, 2016 eligibility determination, and December 8, 2016 plan 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.

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DEPARTMENT OF HEALTH
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Decision

Decision Date: May 8, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014624

[REDACTED]

Issues

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

Did NY State of Health properly determine that you were eligible to receive \$0.00 per month in advance payments of the premium tax credit, effective November 1, 2016?

Did NY State of Health properly determine that you were ineligible for the Essential Plan, effective November 1, 2016?

Did NY State of Health properly determine that your enrollment in and eligibility for an Essential Plan was effective January 1, 2017?

Procedural History

On September 30, 2016, NY State of Health (NYSOH) received your updated application for financial assistance with health insurance.

On October 1, 2016, NYSOH issued a plan disenrollment notice stating that your enrollment in your Essential Plan would end, effective October 31, 2016. This notice also stated that this was because you were no longer eligible to remain enrolled in your current health insurance.

On October 8, 2016, NYSOH issued a notice of eligibility determination, based on your September 30, 2016 application, stating that you were eligible to receive \$0.00 in advanced premium tax credits (APTC), effective November 1, 2016.

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That notice also stated that you were not eligible for the Essential Plan because your income was over the allowable income limits for that program.

On November 21, 2016, NYSOH received your updated application for financial assistance with health insurance.

On November 23, 2016, NYSOH issued a notice of eligibility determination, based on your November 21, 2016 application, stating that you were eligible for up to \$77.00 per month in APTC, effective January 1, 2017. This notice also stated that you were not eligible for the Essential Plan because your income was over the allowable income limits for that program.

On December 7, 2016, NYSOH received your updated application for financial assistance with health insurance.

On December 8, 2016, NYSOH issued a notice of eligibility determination, based on your December 7, 2016 application, stating that you were eligible for the Essential Plan with a \$20.00 monthly premium, effective January 1, 2017.

Also on December 8, 2016, NYSOH issued a plan enrollment confirmation notice, based on your plan selection on December 7, 2016, confirming your enrollment in your Essential Plan with a \$20.00 monthly premium, and that your plan would start January 1, 2017.

On January 5, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your Essential Plan insofar as it did not begin on November 1, 2016.

On March 14, 2017, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. However, that telephone hearing was postponed due to extreme weather.

On May 3, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and the record was closed at the end of the hearing.

Findings of Fact

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

- 1) You are seeking insurance for yourself.
- 2) The application that was submitted on September 30, 2016 listed an annual household income of \$47,039.00, consisting of income you earn

- from your self-employment. You testified that this amount was correct at the time.
- 3) The application that was submitted on December 7, 2016 listed an annual household income of \$21,000.00, consisting of income you earn from your self-employment. You testified that this amount was correct at the time.
 - 4) The September 30, 2016 application stated that you expected to file your 2016 tax return with a tax filing status of single. You would claim no dependents on that tax return.
 - 5) The September 30, 2016 application stated that you were not planning on taking any deductions on your 2016 tax return.
 - 6) Your September 30, 2016 application stated that you lived in New York County.
 - 7) You testified that you are self-employed; therefore, your income fluctuates every year.
 - 8) You testified that you called NYSOH multiple times in September and were told that you would need to call back in December to select a health insurance plan.
 - 9) You testified that you want your Essential Plan enrollment to begin November 1, 2016.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (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)).

The maximum amount of APTC that can be authorized equals:

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- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2017 is set by federal law at 2.04% to 9.69% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc.2016-24).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)).

On the date of your September 30, 2016 application, that was the 2015 FPL, which is \$11,770.00 for a one-person household (80 Federal Register 3236, 3237).

For annual household income in the range of at least 300% but less than 400% of the 2015 FPL, the expected contribution for 2016 is 9.66% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37, IRS Rev. Proc. 2014).

People who use the 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).

Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully

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present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)).

On the date of your September 30, 2016 application, that was the 2015 FPL, which is \$11,770.00 for a one-person household (80 Federal Register 3236, 3237).

On the date of your December 7, 2016 application, that was the 2016 FPL, which is \$11,880.00 for a one -person household (81 Fed. Reg. 4036).

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

The Essential Plan is considered minimum essential coverage therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential 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); see also 42 CFR § 600.320). 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)).

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Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible for \$0.00 per month in APTC, effective November 1, 2016.

The application that was submitted on September 30, 2016 listed an annual household income of \$47,039.00 and the eligibility determination relied upon that information.

On that application, you were in a one-person household. You expected to file your 2016 income taxes as single and would claim no dependents on that tax return.

You resided in New York County, where the second lowest cost silver plan available for an individual through NYSOH for 2016 cost \$368.26 per month.

An annual income of \$47,039.00 was 399.65% of the 2015 FPL for a one-person household. At 399.65% of the FPL, the expected contribution to the cost of the health insurance premium for 2016 was 9.66% of income, or \$378.66 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through NYSOH for an individual in your county (\$368.26 per month) minus your expected contribution (\$378.66 per month), which equals \$ -10.40 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for \$0.00 per month in APTC based on your September 30, 2016 application.

The second issue under review is whether NYSOH properly determined that you were ineligible for the Essential Plan based on your September 30, 2016 application.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income that is between 138% and 200% of the FPL for the applicable family size. On the date of your September 30, 2016 application, the relevant FPL was \$11,770.00 for a one-person household. Since an annual household income of \$47,039.00 is 399.65% of the 2015 FPL, NYSOH properly found you to be ineligible for the Essential Plan, effective November 1, 2016, based on your September 30, 2016 application. Accordingly, you would not have been eligible to enroll into an Essential Plan effective November 1, 2016.

Since the October 8, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible for \$0.00 per month in APTC and ineligible for the Essential Plan, it is correct and is AFFIRMED.

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The third issue is whether NYSOH properly determined that your enrollment in an Essential Plan was effective January 1, 2017.

You testified, and the record reflects, that you updated your NYSOH application on December 7, 2016. The income information in this application was lower than the income information contained in your September 2016 application. As a result, you were found eligible for the Essential Plan as of December 7, 2016 and enrolled in a plan that day.

The date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month to the end of the month goes into effect on the first day of the second following month.

On December 7, 2016, you selected an Essential Plan, so your enrollment properly took effect on the first day of the first month following December 2016; that is, on January 1, 2017.

Therefore, the December 8, 2016 eligibility determination notice and the December 8, 2016 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective January 1, 2017, are correct and must be AFFIRMED.

Decision

The October 8, 2016 eligibility determination notice is AFFIRMED.

The December 8, 2016 eligibility determination notice is AFFIRMED.

The December 8, 2016 plan enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: May 8, 2017

How this Decision Affects Your Eligibility

You were properly determined eligible for \$0.00 in APTC, effective November 1, 2016.

You were properly determined ineligible for the Essential Plan, effective November 1, 2016.

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 effective date of your Essential Plan is January 1, 2017.

This decision does not change your current eligibility.

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):

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 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 October 8, 2016 eligibility determination notice is AFFIRMED.

The December 8, 2016 eligibility determination notice is AFFIRMED.

The December 8, 2016 plan enrollment confirmation notice is AFFIRMED.

You were properly determined eligible for \$0.00 in APTC, effective November 1, 2016.

You were properly determined ineligible for the Essential Plan, effective November 1, 2016.

The effective date of your Essential Plan is January 1, 2017.

This decision does not change your current eligibility.

Legal Authority

We are sending you this notice 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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