



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

Notice of Decision

Decision Date: April 27, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014805

[REDACTED]

Dear [REDACTED]

On April 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 9, 2016 and January 11, 2017 eligibility determinations.

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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DEPARTMENT OF HEALTH
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Decision

Decision Date: April 27, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014805

[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 eligible to purchase a qualified health plan at full cost through NYSOH, and not eligible for advanced payments of the premium tax credit (APTC), effective January 1, 2017?

Did NYSOH properly determine that your, and your spouse's, eligibility for APTC began on February 1, 2017?

Procedural History

On December 5, 6, and 8, 2016, you updated your household's application for financial assistance with health insurance for 2017.

On December 6, 7, and 9, 2016, NYSOH issued eligibility determination notices stating that you and your spouse were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2017. The notice stated that you and your spouse were not eligible to receive APTC or cost-sharing reductions because NYSOH was missing information about your taxes.

On December 14, 2016, NYSOH issued a notice of enrollment confirmation, confirming your, and your spouse's, enrollment in a full cost platinum-level qualified health plan, effective January 1, 2017.

On January 10, 2017, you updated your NYSOH application for financial assistance.

On January 11, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive up to \$510.00 per month in APTC, effective February 1, 2017.

Also on January 11, 2017, NYSOH issued a notice of enrollment confirmation, confirming your, and your spouse's, enrollment in your qualified health plan, with the application of your APTC to your monthly premium beginning February 1, 2017.

On January 12, 2017, you spoke to NYSOH's Account Review Unit and appealed the December 9, 2016 and January 11, 2017 eligibility determination notices, insofar as your, and your spouse's, eligibility for APTC began on February 1, 2017.

On April 10, 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) Your NYSOH account reflects that APTC was paid on your behalf in 2015.
- 2) You testified that your 2015 tax return was filed late.
- 3) You testified that you were granted an extension to file until October 15, 2016, however, you did not send your return to the IRS until sometime around December 7, 2016, when you sent it by FedEx to the IRS.
- 4) You testified that your tax return was accepted and processed by the IRS sometime at the end of December 2016.
- 5) You testified that you contacted NYSOH in November 2016 with a question regarding how your APTC for 2015 had been calculated, as you were found to have received \$1,500.00 more than you were entitled to in 2015.
- 6) You testified that the person you spoke with from NYSOH informed you that you did not need to have your 2015 tax return filed by the end of 2016 to be eligible for a tax credit in 2017.

- 7) Your NYSOH account reflects that you updated your application on January 10, 2017, which resulted in a determination that you and your spouse were eligible for APTC of \$510.00 per month, effective February 1, 2017.
- 8) You testified that, since your tax return was filed before the end of 2016, you believe you should be eligible for a tax credit in the month of January 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

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

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).

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)).

For all individuals whose household income is needed, NYSOH must request tax

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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)).

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of advance payments of the premium tax credit (APTC) for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your spouse were eligible to purchase a qualified health plan at full cost through NYSOH, and not eligible for APTC, effective January 1, 2017.

On December 5, 6, and 8, 2016, NYSOH received your household's applications for financial assistance for 2017. On December 6, 7, and 9, 2016, NYSOH issued notices of eligibility determination stating that you and your spouse were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2017, and ineligible to receive APTC. This was because NYSOH was missing information about your taxes.

You testified that you and your spouse had obtained an extension of filing on your 2015 tax return until October 15, 2016. You further testified that you did not file by this deadline, but sent your return by Fed-Ex to the IRS sometime around December 7, 2016. You testified that your return was processed and filed at the end of December 2016, prior to January 1, 2017.

At the time of your December applications, NYSOH had not received information from the IRS that your household's tax return for 2015 had been properly filed. If NYSOH is unable to obtain information that a prior year's tax return has been filed, NYSOH may not determine a tax filer eligible for APTC, if APTC was paid on the tax filer's behalf in a previous year.

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You testified that a NYSOH representative misinformed you by telling you that it did not matter whether you filed your tax return by the end of 2016. Nevertheless, this does not change the fact that you had not filed your tax return as of the dates on which you updated your application for financial assistance in December 2016. As NYSOH did not have the information necessary to find you eligible for APTC, you and your spouse were correctly found eligible to purchase a full cost QHP, effective January 1, 2017.

The second issue under review is whether NYSOH properly determined that you and your spouse were eligible for APTC effective February 1, 2017.

You updated your NYSOH application on January 10, 2017, and NYSOH determined that you and your spouse were eligible to receive up to \$510.00 per month in APTC, effective February 1, 2017.

When an individual changes information in their application before the 15th of any month, the Marketplace must make the redetermination that results from that change effective the first day of the following month. Therefore, NYSOH properly determined that the application of your APTC to your, and your spouse's, monthly premium was effective February 1, 2017.

However, when APTC is recalculated mid-year, NYSOH is required to prorate monthly amounts to reflect APTC that has (or has not) already been received, to ensure that the APTC you receive during the year is as close as possible to the overall tax credit you will be entitled to when you file your taxes for the 2017 tax year.

Your NYSOH account reflects that you and your spouse were enrolled into your qualified health plan as of January 1, 2017 and, for that month, you paid the full \$1,492.00 premium. Therefore, according to the record, you were enrolled in coverage in January 2017 such that you would be eligible for a tax credit for that month's coverage.

It appears that the NYSOH did not prorate the monthly amount in its January 11, 2017 eligibility determination. Instead, it simply found you eligible for the monthly amount to which you would have been entitled had you received APTC for the entire 12 months of the year.

Therefore, your case is RETURNED to NYSOH to re-calculate the monthly amount of APTC you should have received, based on the fact that your total tax credit for 2017 is being applied over a period of eleven months, not twelve, pending proof that you paid your full health plan premium for the month of January 2017.

Decision

The December 9, 2016 eligibility determination is AFFIRMED.

The January 11, 2017 eligibility determination is AFFIRMED.

Your case is RETURNED to NYSOH to recalculate the amount of APTC you and your spouse should have received (and should continue to receive) each month, based on your January 10, 2017 application, as your total tax credit is being applied over a period of 11 months, not 12, and it is anticipated that you will have coverage through NYSOH for the full year.

NYSOH will contact you to secure proof that you paid your January 2017 health plan premium in full.

Effective Date of this Decision: April 27, 2017

How this Decision Affects Your Eligibility

You and your spouse were eligible to purchase a qualified health plan at full cost, effective January 1, 2017, as of your December 9, 2016 application.

NYSOH properly determined that the application of APTC to your, and your spouse's, health plan was effective as of February 1, 2017.

However, since the record indicates you were enrolled in a full cost QHP in January 2017, NYSOH should have prorated your APTC so that the amount you receive over the period of February 2017 through December 2017 is equivalent to the overall tax credit you will be entitled to when you file your 2017 tax return.

Your eligibility for prorated APTC is dependent on verification that you paid your full premium for the month of January 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.

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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 December 9, 2016 eligibility determination is AFFIRMED.

The January 11, 2017 eligibility determination is AFFIRMED.

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Your case is RETURNED to NYSOH to recalculate the amount of APTC you and your spouse should have received (and should continue to receive) each month, based on your January 10, 2017 application, as your total tax credit is being applied over a period of 11 months, not 12, and it is anticipated that you will have coverage through NYSOH for the full year.

NYSOH will contact you to secure proof that you paid your January 2017 health plan premium in full.

You and your spouse were eligible to purchase a qualified health plan at full cost, effective January 1, 2017, as of your December 9, 2016 application.

NYSOH properly determined that the application of APTC to your, and your spouse's, health plan was effective as of February 1, 2017.

However, since the record indicates you were enrolled in a full cost QHP in January 2017, NYSOH should have prorated your APTC so that the amount you receive over the period of February 2017 through December 2017 is equivalent to the overall tax credit you will be entitled to when you file your 2017 tax return.

Your eligibility for prorated APTC is dependent on verification that you paid your full premium for the month of January 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&btumi 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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