



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

Notice of Decision

Decision Date: May 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014969

[REDACTED]

Dear [REDACTED]

On April 26, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 17, 2016, December 4, 2016, January 4, 2017, and January 6, 2017 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 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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Decision

Decision Date: May 30, 2017

NY State of Health Account ID: [REDACTED]
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Issues

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

Did NY State of Health (NYSOH) properly determine that you and your spouse were no longer eligible for advance payments of the premium tax credit (APTC), effective January 1, 2017?

Did NYSOH properly determine that eligibility for and receipt of APTC for you and your spouse did not resume until February 1, 2017?

Procedural History

On December 5, 2015, NYSOH issued an eligibility determination stating that you and your spouse were conditionally eligible for APTC in the amount of \$388.00 per month, effective January 1, 2016.

Also on January 1, 2016, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in a qualified health plan (QHP) with APTC applied in the amount of \$388.00 per month, effective January 1, 2016.

The conditional aspect of your eligibility was removed in a notice issued on January 1, 2016.

On October 20, 2016, NYSOH issued a renewal notice stating that it was time to renew your coverage. It also stated that based on information from state and federal sources, NYSOH could not determine whether you would qualify for

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financial help to pay for your coverage for the upcoming year. The notice directed you to update your account between November 16, 2016 and December 15, 2016; if you missed the deadline, the financial assistance you were getting might end. It did not request income verification.

On November 16, 2016, you updated your NYSOH account.

On November 17, 2016, NYSOH issued an eligibility redetermination notice stating that you and your spouse were newly eligible to enroll in a full price QHP, effective January 1, 2017. That notice also stated that you and your spouse were not eligible for a tax credit and cost sharing reduction because of one of three reasons: You said you did not plan on filing a tax return, you were married and said you would be filing your tax return separately from your spouse, or APTC was paid to your health insurance company to reduce your premium costs in a prior year and NYSOH was unable to tell if a federal tax return was filed for that year. The specific reason was not provided in the notice.

Also on November 17, 2016, NYSOH issued an enrollment notice confirming enrollment in a QHP for you and your spouse, with a monthly plan cost of \$799.18 per month and \$0.00 APTC applied to the premium, effective January 1, 2017.

On December 13, 2016, you uploaded a copy of your 2015 tax return to your NYSOH account.

On January 3, 2017, NYSOH redetermined eligibility for you and your spouse.

On January 4, 2017, NYSOH issued an eligibility redetermination notice stating that you and your spouse were eligible for APTC in the amount of \$307.00 per month, effective February 1, 2017.

On January 6, 2017, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a QHP, with APTC in the amount of \$307.00 per month being applied effective February 1, 2017.

On January 19, 2017, you spoke to NYSOH's Account Review Unit and appealed the determination that you and your spouse were not eligible for APTC for the month of January 2017.

On April 26, 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) NYSOH records reflect that you and your spouse were determined eligible for APTC effective January 1, 2016.
- 2) You testified that you received NYSOH's notice dated November 17, 2016 stating that you and your spouse were no longer eligible for APTC, effective January 1, 2017.
- 3) You testified that you and your spouse received APTC during 2015.
- 4) You testified that you contacted NYSOH and were told by a NYSOH representative that there was no record that you and your spouse filed your 2015 tax return.
- 5) You testified that you had requested and received an extension from the IRS to file your 2015 tax return.
- 6) You testified that you filed your 2015 tax return on or about October 12, 2016.
- 7) You uploaded a copy of your 2015 tax return to NYSOH on December 13, 2016 ([REDACTED]).
- 8) Your account reflects that your 2015 tax return was verified by NYSOH on January 3, 2017, and accepted as sufficient evidence of your eligibility to receive APTC.
- 9) NYSOH records reflect that on January 4, 2017, you and your spouse were redetermined eligible for APTC effective February 1, 2017, with no conditions attached.
- 10) You testified that you paid your full QHP premium amount of \$799.17 for the month of January 2017.
- 11) You testified that you contacted NYSOH after providing your 2015 tax return. You testified that a NYSOH representative advised you that based on the date that you provided your 2015 tax return to NYSOH (December 13, 2016), you and your spouse should have redetermined eligible for APTC, effective January 1, 2017 and not February 1, 2017.
- 12) You testified that you are seeking to have your and your spouse's APTC reinstated for 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

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 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)).

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)).

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)).

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End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your spouse were no longer eligible for advance payments of the premium tax credit (APTC), effective January 1, 2017.

NYSOH records reflect that you and your spouse were previously determined eligible for APTC on December 15, 2015, with an effective date of January 1, 2016.

NYSOH issued a renewal notice to you on October 20, 2016, advising you that NYSOH could not determine whether you would qualify for financial help to pay for your coverage for the upcoming year. The notice directed you to update your account between November 16, 2016 and December 15, 2016; if you missed the deadline, the financial assistance you were getting might end. This notice did not advise you that income verification was needed.

On November 16, 2016, you updated your NYSOH account. On November 17, 2016, an eligibility redetermination notice was issued, stating that you and your spouse were eligible to purchase a full cost QHP through NYSOH, effective January 1, 2017. The notice also stated that you and your spouse were not eligible for a tax credit and cost sharing reduction because of one of three reasons: You said you did not plan on filing a tax return, you were married and said you would be filing your tax return separately from your spouse, or APTC was paid to your health insurance company to reduce your premium costs in a prior year and NYSOH was unable to tell if a federal tax return was filed for that year. The specific reason was not provided in the notice.

However, you testified that you contacted NYSOH and were told by a NYSOH representative that there was no record that you and your spouse filed your 2015 taxes.

You testified that you requested and received an extension from the IRS to file your 2015 tax return which you filed on or about October 12, 2016.

You testified and NYSOH records reflect that you uploaded your 2015 tax return to your NYSOH account on December 13, 2016. NYSOH records reflect that that your 2015 tax return was verified on January 3, 2017 resulting in a January 4, 2017 eligibility redetermination notice stating that you and your spouse were eligible for APTC, effective February 1, 2017. It must be presumed by this decision that the copy of your 2015 tax return was deemed by NYSOH to be sufficient evidence that you had in fact filed your tax return for 2015.

In summary, in response to the renewal notice you updated your account on the first day of the time frame provided by the renewal notice. At that time, NYSOH then found that you needed to submit more information, without specifically stating what that information was, and denied your eligibility for APTC. Notwithstanding this, you uploaded a copy of your 2015 tax return which NYSOH eventually found acceptable, within the original time frame provided by the renewal notice.

The Appeals Unit finds that because you promptly and appropriately responded to all requests issued by NYSOH and the delay in verifying your 2015 tax return was completely outside of your control, your and your spouse's application is deemed to have complete as of the date NYSOH received your 2015 tax return, which was December 13, 2016, and not on the date when it was ultimately reviewed and verified by a NYSOH representative.

As such, you and your spouse's eligibility for APTC should have been redetermined as of December 13, 2016.

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.

Since you and your spouse's eligibility to receive APTC should have been determined as of December 13, 2016, receipt of APTC should taken effect on the first day of the month immediately following the eligibility redetermination, i.e., January 1, 2017.

Therefore, the November 17, 2016, December 4, 2016, January 4, 2017, and January 6, 2017 eligibility determination and enrollment confirmation notices are MODIFIED to reflect that you and your spouse were eligible to receive APTC during the month of January 2017.

Decision

November 17, 2016, December 4, 2016, January 4, 2017, and January 6, 2017 eligibility determination and enrollment confirmation notices are MODIFIED to reflect that you and your spouse were eligible to receive APTC during the month of January 2017.

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).

Your case is being RETURNED to NYSOH to reinstate you and your spouse's APTC for the month of January 2017.

Effective Date of this Decision: May 30, 2017

How this Decision Affects Your Eligibility

NYSOH incorrectly determined that you and your spouse were ineligible for APTC for the month of January 2017.

Your case is being RETURNED to NYSOH to reinstate you and your spouse's APTC 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.

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 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).

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 17, 2016 eligibility determination and enrollment confirmation notices are MODIFIED to reflect that you and your spouse were eligible to receive APTC for the month of January 2017.

Your case is being RETURNED to NYSOH to reinstate you and your spouse's APTC for the month of January 2017.

NYSOH incorrectly determined that you and your spouse were ineligible for APTC 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।

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&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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