



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

Notice of Decision

Decision Date: June 16, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014998

[REDACTED]

Dear [REDACTED],

On April 19, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 16, 2016 eligibility redetermination.

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: June 16, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014998



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 for no more than \$83.00 per month in advance payments of the premium tax credit (APTC), effective December 1, 2016?

Procedural History

On June 4, 2016, NYSOH issued an eligibility redetermination notice stating that you and your spouse were newly eligible to receive up to \$249.00 per month in APTC, effective July 1, 2016.

Also on June 4, 2016, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in a QHP, with \$249.00 per month being applied against the premium, effective July 1, 2016.

On October 10, 2016, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that no action was needed for you and your spouse, as well as your two older children, but that you would receive notices about renewing coverage for those four people later. However, it stated that to renew your youngest child's coverage, you would need to update your account by November 15, 2016, so that a determination could be made regarding her eligibility.

On October 24, 2016, you updated your NYSOH account.

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On October 25, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were eligible for up to \$249.00 per month in APTC, effective December 1, 2016. Your children were found eligible for Child Health Plus, effective December 1, 2016.

Also on October 25, 2016, NYSOH issued a notice of enrollment confirmation stating that you and your spouse remain enrolled in a QHP with of \$249.00 per month applied to the monthly premium, effective December 1, 2016.

On November 15, 2016, for reasons that are not clear, a NYSOH representative redetermined eligibility for your family, with no apparent input from you, based on a higher salary of \$85,493.18.

On November 16, 2016, NYSOH issued an eligibility redetermination notice stating that you and your spouse were eligible for APTC in the amount of \$83.00 per month, effective December 1, 2016.

On November 16, 2016 and November 22, 2016, your NYSOH application was resubmitted.

On November 23, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your spouse were eligible for APTC in the amount of \$217.00 per month, effective January 1, 2017.

Also on November 23, 2016, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in a QHP with APTC of \$217.00 applied to your monthly premium, effective January 1, 2017.

On January 20, 2017, you spoke to NYSOH's Account Review Unit and appealed you and your spouse's APTC amount of \$83.00 for the month of December 2016.

On April 19, 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 you and your spouse received APTC for 2016 in the amount of \$249.00 per month from July 2016 through November 2016, and \$83.00 in December 2016.
- 2) You testified that in October 2016 you contacted NYSOH and spoke to a representative about enrollment questions you had for 2017 and were

advised that a NYSOH representative would call you in November 2016, when you were due to renew, to assist you with enrollment.

- 3) You testified that were contacted by a NYSOH representative on November 15, 2016, who stated they were calling to assist you in completing your renewal. The NYSOH representative asked you enrollment questions, including asking you to provide your household income for 2017.
- 4) You testified that you advised the NYSOH representative on November 15, 2016 that that your spouse was becoming a partner in a business effective January 1, 2017, and on that date that your household income would be increasing to \$85,493.18.
- 5) You testified that the NYSOH representative entered \$85,493.18 as your household income effective on that date (November 15, 2016) resulting in your APTC being reduced from \$249.00 per month to \$83.00 per month, effective December 1, 2016.
- 6) NYSOH records reflect that on November 15, 2016 your household income on your application was increased to \$85,493.18.
- 7) You testified that you did not make any changes to your household income in your NYSOH account on November 15, 2016.
- 8) According to the "Events Tab" in your NYSOH account, the income change on November 15, 2016 was made by a NYSOH representative.
- 9) NYSOH records reflect that on November 16, 2016, NYSOH issued an eligibility redetermination notice stating that you and your spouse were eligible for APTC in the amount of \$83.00 per month, effective December 1, 2016.
- 10) You testified that you paid your insurance carrier the additional \$166.00 premium amount (\$249.00-\$83.00) after the application of \$83.00 of APTC for your December 2016 premium.
- 11) You testified that you are seeking that your APTC amount of \$249.00 be reinstated for the month of December 2016.

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 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 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 what day of the month the change occurs (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse were eligible for APTC in the amount of \$83.00 per month, effective December 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).

NYSOH records reflect that on June 4, 2016, NYSOH found you and your spouse eligible to receive APTC in the amount of \$249.00 per month, effective July 1, 2016 and that you and your spouse subsequently enrolled in a QHP.

You testified that in October 2016 you contacted NYSOH and spoke to a representative about enrollment questions you had for 2017 and were advised that a NYSOH representative would call you in November 2016, when you were due to renew, and to assist you with enrollment.

You testified that were contacted by a NYSOH representative on November 15, 2016 who stated that they were calling to assist you complete your renewal. The NYSOH representative asked you enrollment questions, including asking you to provide your household income for 2017.

You testified that you advised the NYSOH representative on November 15, 2016 that that your spouse was becoming a partner in a business effective January 1, 2017 and on that date that your household income would be increasing to \$85,493.18.

You testified that the NYSOH representative entered \$85,493.18 as your household income effective on that date (November 15, 2016) resulting in your APTC being reduced from \$249.00 per month to \$83.00 per month, effective December 1, 2016.

NYSOH records reflect that on November 15, 2016 your household income was increased to \$85,493.18. You testified that you did not make any changes to your household income in your NYSOH account on November 15, 2016. According to the "Events Tab" in your NYSOH account, the income change on November 15, 2016 was made by a NYSOH representative.

As such, NYSOH records support your credible testimony that the change in your household income was incorrectly entered and determined to be effective December 1, 2016 resulting in your APTC being reduced to \$83.00 per month.

Therefore, the November 16, 2016 eligibility redetermination is MODIFIED to reflect that you and your spouse were entitled to APTC in the amount of \$249.00 for the month of December 2016.

However, if you have already filed your tax return for 2016, any amount owed to you in the form of a tax credit may already have been paid to you. Therefore, this matter is returned to NYSOH to assist you in determining what further actions should be taken.

Decision

The November 16, 2016 eligibility redetermination is MODIFIED to reflect that you and your spouse were entitled to APTC in the amount of \$249.00 for the month of December 2016.

Effective Date of this Decision: June 16, 2017

How this Decision Affects Your Eligibility

NYSOH incorrectly determined the amount of APTC you and your spouse were entitled to during the month of December 2016. However, if you have already filed your tax return for 2016, you may have already reconciled the difference directly with the IRS.

Your case is RETURNED to NYSOH to assist you in determining what further actions should be taken.

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

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).

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 16, 2016 eligibility redetermination is MODIFIED to reflect that you and your spouse were entitled to APTC in the amount of \$249.00 for the month of December 2016.

NYSOH incorrectly determined the amount of APTC you and your spouse were entitled to during the month of December 2016. However, if you have already filed your tax return for 2016, you may have already reconciled the difference directly with the IRS.

Your case is RETURNED to NYSOH to assist you in determining what further actions should be taken.

Legal Authority

We are issuing this determination in accordance with 45 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).

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.

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).