



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

Notice of Decision

Decision Date: May 19, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015232

[REDACTED]

Dear [REDACTED]

On April 24, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 29, 2016 and January 14, 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: May 19, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015232



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 eligible to purchase a qualified health plan (QHP) at full cost through NYSOH, and not eligible for advance 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 no earlier than February 1, 2017?

Procedural History

On December 16, 2015, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to receive up to \$332.00 per month in APTC, and eligible for cost-sharing reductions, effective January 1, 2017.

Also on December 16, 2015, NYSOH issued a notice of enrollment confirmation, confirming your, and your spouse's, enrollment in a QHP, with your enrollment, and the application of your APTC to your monthly premium payment, set to begin on January 1, 2016.

On October 16, 2016, NYSOH issued a renewal notice stating that it was time to renew your NYSOH coverage. The notice stating that, based on the information available from state and federal data sources, NYSOH could not determine your and your spouse's eligibility for health coverage in 2017. The notice directed you

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to update your NYSOH account by December 15, 2016, or the financial assistance you were currently receiving may end.

On November 27, 2016, NYSOH issued a notice stating that your, and your spouse's, enrollment in your QHP was ending, effective December 31, 2016.

On November 28, 2016, you updated your NYSOH account.

On November 29, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to purchase a QHP 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 16, 2016, NYSOH issued a notice of enrollment confirmation, confirming your, and your spouse's, enrollment in a full cost platinum-level QHP, effective January 1, 2017.

On January 13, 2017, you updated your NYSOH application for financial assistance.

On January 14, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive up to \$518.00 per month in APTC, and eligible for cost-sharing reductions, effective February 1, 2017.

Also on January 14, 2017, NYSOH issued a notice of enrollment confirmation, confirming your, and your spouse's, enrollment in your QHP, with the application of your APTC to your monthly premium beginning February 1, 2017.

On January 27, 2017, you spoke to NYSOH's Account Review Unit and appealed the November 29, 2016 and January 14, 2017 eligibility determination notices, insofar as your, and your spouse's, eligibility for APTC began on February 1, 2017.

On April 24, 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 at the end of the hearing for fifteen days until May 9, 2017 to give you the opportunity to submit a copy of the IRS transcript of your 2015 federal income tax return. On May 10, 2017, you faxed documentation to the NYSOH Appeals Unit. The record is now closed.

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.

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- 2) You testified that your 2015 tax return was filed late.
- 3) You testified that you filed your 2015 tax return in either September or October of 2016, and that you had definitely filed it by the time you updated your NYSOH application in November 2016.
- 4) You testified that, when you filed your 2015 tax return, you reconciled the APTC that you received in 2015, and that you received a refund because you were entitled to more APTC than you received.
- 5) You testified that you believe you received your tax refund sometime in October 2016.
- 6) You testified that, when you spoke to NYSOH about not being found eligible for financial assistance in 2017, you were informed that there was a “computer glitch” that caused them to be unable to determine your eligibility for financial assistance.
- 7) You testified that that you submitted your IRS form 1040 to NYSOH, and your NYSOH account confirms that you uploaded a copy of the front page of your 1040 to your account on November 28, 2016.
- 8) You testified that you also called the IRS and requested a transcript of your 2015 tax return, which you received by mail and fax.
- 9) You testified that you called NYSOH after you received the transcript, but were advised by the NYSOH agent you spoke with that you did not need to submit the transcript because you had already submitted your 1040.
- 10) You testified that you paid your full premium for the month of January for you and your spouse’s QHP.
- 11) Your NYSOH account reflects that you updated your application on January 13, 2017, which resulted in a determination that you and your spouse were eligible for APTC of \$518.00 per month, effective February 1, 2017.
- 12) Your NYSOH account also confirms that when you updated your account on January 13, 2017, NSYOH was able to confirm that you had filed a tax return for 2015.
- 13) You testified that you understand that you will receive any tax credit that you were eligible for, and did not receive, when you file your 2017 taxes.
- 14) You testified that you are proceeding with the appeal because you feel you did everything you were supposed to do, and that you should have

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been found eligible for a tax credit for January 2017, and not had to pay the full premium for that month.

15) After the hearing, the record was left open for fifteen days to provide you with the opportunity to submit a copy of your 2015 IRS tax transcript. On May 10, 2017, you faxed an eleven-page document to NYSOH consisting of a one-page fax cover sheet from the IRS, and a ten-page document with the title "2015 Form 1040 Tax Return – Processed" that appears to show the numbers you entered into your 2015 1040, and the numbers the IRS utilized when they processed your return.

This eleven-page document is entered into the record as "Appellant's Exhibit One."

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 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)).

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
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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 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)).

Redetermination of APTC During a Benefit Year

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 whether this occurred before or after the 15th of the month (45 CFR § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

When an eligibility redetermination results in a change in the amount of 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 QHP at full cost through NYSOH, and not eligible for APTC, effective January 1, 2017.

On November 28, 2016, NYSOH received your household's application for financial assistance for 2017. On November 29, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to purchase a QHP 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 filed your 2015 tax return late, but that you filed it in September or October of 2016, prior to when you updated your application for financial assistance through NYSOH for 2017. You further testified that you reconciled the APTC you received in 2015 when you filed your tax return, and that you received a federal tax refund because you had received less in APTC than you were entitled to. You testified that you received this refund sometime in October 2016.

At the time of your November 28, 2016, NYSOH did not receive confirmation from the IRS that your household's tax return for 2015 had been properly filed. If

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APTC was paid on the tax filer's behalf in a previous year and NYSOH is unable to obtain confirmation that a tax return was been filed for that year, NYSOH may not again determine a tax filer eligible for APTC.

You testified that you had filed your 2015 tax return by the time you updated your account on November 28, 2016, and that you had requested an IRS tax transcript to document this. You testified that a NYSOH representative told you that you did not need to submit this transcript to be found eligible for APTC for January 2017. This was incorrect information, so the Hearing Officer directed you to submit your 2015 IRS tax transcript after the hearing, and gave you fifteen days to do so.

On May 10, 2017, you faxed an eleven-page document to NYSOH. However, this document is not an IRS transcript of your 2015 federal tax return, but appears to be a copy of a document from the IRS showing that your 2015 1040 was processed. This document does not indicate when your 2015 tax return was received and processed by the IRS.

Although NYSOH was able to determine that you had in fact filed a tax return for 2015 as of January 13, 2017, the Appeals Unit has no way of verifying when that tax return was filed, and therefore, the available evidence is insufficient to show that you were eligible for tax credits at the time of your November 28, 2016 application.

Therefore, as NYSOH did not have the information necessary to find you eligible for APTC at the time of your November 28, 2016 application, you and your spouse were correctly found eligible to purchase a full cost QHP, effective January 1, 2017. Additionally, as you have not provided your 2015 IRS tax transcript to the Appeals Unit, there is no basis for redetermining your eligibility for APTC in January 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 13, 2017, and NYSOH determined that you and your spouse were eligible to receive up to \$518.00 per month in APTC, effective February 1, 2017.

When NYSOH determines that there is a change in eligibility for APTC, 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

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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 QHP as of January 1, 2017. You testified that, in that month, you paid the full \$1,794.24 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 NYSOH did not prorate the monthly amount in its January 14, 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 November 29, 2016 eligibility determination is AFFIRMED.

The January 14, 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 13, 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: May 19, 2017

How this Decision Affects Your Eligibility

You and your spouse were eligible to purchase a QHP at full cost, effective January 1, 2017, as of your November 29, 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.

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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.

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.

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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 29, 2016 eligibility determination is AFFIRMED.

The January 14, 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 13, 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 QHP at full cost, effective January 1, 2017, as of your November 29, 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، يرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

বাংলা (Bengali)

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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।

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.

אײִדיש (Yiddish)

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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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