



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

Notice of Decision

Decision Date: May 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015782

[REDACTED]

Dear [REDACTED]

On May 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's failure to issue a timely notice of eligibility determination.

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.

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 Date: May 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015782

[REDACTED]

Issues

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

Was your appeal of the NY State of Health's May 2, 2016 preliminary eligibility determination notice timely?

Did NY State of Health fail to issue a timely notice of eligibility determination?

Procedural History

On November 22, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to receive up to \$369.00 per month in advance payments of the premium tax credit (APTC) and conditionally eligible to receive cost-sharing reductions if you and your spouse enrolled in a silver level qualified health plan, effective January 1, 2016. The notice further directed you to provide documentation confirming your and your spouse's income before February 17, 2016.

Also on November 22, 2015, NYSOH issued a plan enrollment notice confirming you and your spouse's enrollment in qualified health plan with APTC in the amount of \$369.00 per month and cost-sharing reductions, effective January 1, 2016.

No income documentation was received by February 17, 2016.

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On May 2, 2016, NYSOH redetermined you and your spouse's eligibility for financial assistance with your health insurance. NYSOH issued a preliminary eligibility determination stating that you and your spouse were not eligible to receive help paying for your health insurance coverage, but were eligible to purchase a qualified health plan at full cost. This eligibility was effective June 1, 2016.

On February 2, 2017, you contacted the NYSOH Account Review Unit and appealed the termination of your and your spouse's APTC for the months of June 2016 through December 2016.

On May 10, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your spouse, [REDACTED], also testified during the hearing. 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 testified, and your account indicates, that you receive all of your notices from NYSOH by regular mail.
- 2) You testified that you did not receive any notices stating that your eligibility was only conditional and that you needed to provide documentation of your household's income.
- 3) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 4) Your spouse testified that you did not know that you and your spouse were not receiving APTC for the months of June 2016 to December 2016 until you were preparing to file your 2016 federal tax return.
- 5) Your NYSOH account indicates that on May 2, 2016, your application was run and you and your spouse were found no longer eligible to receive financial assistance with your health insurance, effective June 1, 2016.
- 6) You testified that you never received an eligibility determination notice which stated that you and your spouse were no longer eligible for financial assistance with your health insurance.
- 7) You testified that you are seeking reinstatement of your and your spouse's APTC from June 1, 2016 to December 31, 2016.

- 8) Your spouse testified that he is unsure if your APTC amount you and your spouse should have been receiving from June 1, 2016 to December 31, 2016 was reconciled when your 2016 federal tax return was.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

Verification Process

For all individuals, whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow the NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i)). If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f)).

NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence (45 CFR §155.315(f)(2)). If NYSOH remains unable to verify the information required to determine the applicant's eligibility after the 90 day period ends, NYSOH must determine the applicant's eligibility based on the information available and notify the applicant of such determination (45 CFR § 155.315(f)(5)).

NYSOH must provide timely written notice to an applicant of any eligibility determination (45 CFR § 155.310(g)).

Legal Analysis

The initial issue under review is whether your appeal of NYSOH's May 2, 2016 preliminary eligibility determination was timely.

The record reflects that you first contacted NYSOH to file a complaint about the termination of your and your spouse's APTC on February 1, 2017. The record indicates that a formal appeal was filed on that day.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of the termination of your and your spouse's APTC as stated in the May 2, 2016 preliminary eligibility determination, an appeal should have been filed on or around July 1, 2016. The record reflects that your appeal was filed on February 1, 2017, which is well beyond the 60 day deadline.

However, the record reflects that NYSOH never issued an eligibility determination notice stating that you and your spouse were no longer eligible for financial assistance. You credibly testified that you and your spouse did not become aware that your and your spouse's APTC had been terminated for June 1, 2016 through December 31, 2016 until you went to file your 2016 federal tax return in the beginning of February 2017.

It is reasonable to infer that you filed your appeal within a reasonably short time of learning that you and your spouse's APTC had been terminated for June 1, 2016 through December 31, 2016. Therefore, your appeal was timely filed.

The second issue under review is whether NYSOH failed to issue a timely notice of eligibility determination.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to their household's projected annual income. For individuals seeking APTC, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on November 22, 2015, you were advised that you and your spouse's eligibility for APTC was only conditional, and that you needed to confirm your household's income before February 17, 2016.

You testified that you did not receive any notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

The record supports that no income documentation was received by February 17, 2016. On May 2, 2016, NYSOH redetermined that you and your spouse were no longer eligible for financial assistance. However, the record reflects NYSOH failed to provide you with an eligibility determination notice at that time stating that you and your spouse were no longer eligible for financial assistance, effective June 1, 2016.

Therefore, NYSOH failed to issue a timely notice of eligibility determination.

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, which may also result in a tax credit or reduction in tax liability if the full amount of APTC to which a person is entitled is not taken throughout the year. Conversely, if a person received more APTC than their maximum entitlement, based on gross income, they might owe the excess as an additional income tax liability.

During the hearing your spouse testified that he is unsure as to whether your 2016 federal tax return reconciled the amount you should have received in APTC for that year.

Based on the information in your NYSOH account, you and your spouse should have been eligible for \$369.00 per month in APTC from June 1, 2016 to December 31, 2016. Since it is unclear as to whether your 2016 federal tax return properly reconciled this amount, your case is being RETURNED to NYSOH to ensure that the amount you were entitled to in APTC for 2016 is either retroactively applied to your premium amount for June 1, 2016 through December 31, 2016 or to confirm that you have already reconciled that amount on your 2016 tax return.

Decision

NYSOH failed to issue a timely notice of eligibility determination on or about May 2, 2016.

Based on the information in your NYSOH account, you and your spouse should have been eligible for \$369.00 per month in APTC from June 1, 2016 to December 31, 2016. Your case is RETURNED to NYSOH to ensure that the amount you were entitled to in APTC for 2016 is either retroactively applied to your premium amount for June 1, 2016 through December 31, 2016 or to confirm that you have already reconciled that amount on your 2016 tax return.

Effective Date of this Decision: May 26, 2017

How this Decision Affects Your Eligibility

NYSOH failed to issue a timely notice of your and your spouse's eligibility as of June 1, 2016. You and your spouse were eligible for \$369.00 per month in APTC from June 1, 2016 to December 31, 2016.

This decision has no effect on any subsequent eligibility determinations made by NYSOH.

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:

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).

- 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

NYSOH failed to issue a timely notice of eligibility determination on or about May 2, 2016.

Based on the information in your NYSOH account, you and your spouse should have been eligible for \$369.00 per month in APTC from June 1, 2016 to December 31, 2016. Your case is RETURNED to NYSOH to ensure that the amount you were entitled to in APTC for 2016 is either retroactively applied to your premium amount for June 1, 2016 through December 31, 2016 or to confirm that you have already reconciled that amount on your 2016 tax return.

NYSOH failed to issue a timely notice of your and your spouse's eligibility as of June 1, 2016. You and your spouse were eligible for \$369.00 per month in APTC from June 1, 2016 to December 31, 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).

This decision has no effect on any subsequent eligibility determinations made by NYSOH.

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&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.

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).