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

Notice of Decision

Decision Date: July 20, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000016262

[redacted]

Dear [redacted]

On June 1, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 10, 2017 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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Decision

Decision Date: July 20, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000016262

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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 were eligible to enroll in health insurance only at full cost, effective March 1, 2017?

Procedural History

On December 16, 2016, NYSOH issued a notice of eligibility determination, stating that you were eligible to receive up to $134.00 per month in advance payments of the premium tax credit (APTC), effective January 1, 2017.

On December 27, 2016, two notices sent to you by NYSOH were returned as begin undeliverable; however, they were not uploaded to your account until February 10, 2017.

On January 14, 2017, NYSOH issued an enrollment notice stating that your coverage was ending, effective January 1, 2017, because you had not paid a premium by a required deadline.

On January 21, 2017, NYSOH issued a notice stating that you had been reenrolled into coverage, effective March 1, 2017, with $134.00 per month of APTC applied toward your premium.

On February 9, 2017, NYSOH systematically redetermined your eligibility.

On February 10, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in health insurance only at full cost, effective March 1, 2017. That notice also stated that you were not eligible for Medicaid or the Essential Plan, because your income was over the allowable income limits for those programs; there was no explanation as to why you were no longer eligible for APTC.

On February 27, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC effective February 28, 2017.

On June 1, 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 until June 15, 2017, to allow you to submit supporting documents. No documentation was received by the deadline provided, and the record was closed.

Findings of Fact

A review of the record supports the following findings of fact:

1) You testified that your address was incorrectly identified in your account as being in [redacted] instead of [redacted] the address on your account is otherwise correct.

2) At the time you applied for insurance on December 15, 2016, you expected to file your 2017 tax return with a tax filing status of single, with no dependents.

3) You were seeking insurance for yourself.

4) The application that was submitted on December 15, 2016 listed annual household income of $40,000.20. You testified that this amount was correct.

5) Your application states that you live in [redacted]

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

Applicable Law and Regulations

Eligibility to Enroll in Coverage Through NYSOH

To enroll in a qualified health plan (QHP) through NYSOH, an otherwise qualified individual must reside in New York State (45 CFR § 155.305(a)(3)).

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (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 the 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).

Notice

Any required notice issued by NYSOH must include an explanation of the action referenced in the notice, including the effective date of the action, and the factual and legal basis for such action (45 CFR § 155.230).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were eligible to enroll in health insurance only at full cost, effective March 1, 2017.

You submitted an application for insurance and financial assistance on December 15, 2016, which listed an annual household income of $40,000.20. You were subsequently found eligible to enroll in a qualified health plan, and to receive up to $134.00 per month in APTC. You enrolled in a plan, which was to become effective on January 1, 2017.

On January 14, 2017, NYSOH issued a notice stating that your coverage was ending effective January 1, 2017, because you had not paid your premium by the deadline.

On January 21, 2017, NYSOH issued a new enrollment notice, stating that you had been allowed to reenroll in your plan, effective March 12, 2017, and to apply APTC toward your premium tax credit.

However, on February 9, 2017, possibly because of the several notices sent to you having been returned as undeliverable in December 2016, your eligibility was redetermined.

On February 10, 2017, NYSOH issued a notice stating that you were eligible to enroll in health insurance only at full cost, effective March 1, 2017. However, there was no explanation as to why you were no longer eligible for APTC.

NYSOH is required to provide an explanation when a notice is issued describing an action taken by NYSOH. In this case, after you were reenrolled in a plan, NYSOH determined that you were no longer eligible for APTC, but improperly failed to explain why this action had been taken.

Additionally, after a review of the file, the Appeals Unit cannot find any basis for the loss of eligibility for APTC after you were reenrolled in coverage. Although several early notices were returned as undeliverable, later notices were not. Therefore, the basis for ineligibility for APTC cannot be related to a question of residency.

Therefore, because the February 10, 2017 eligibility determination notice improperly failed to provide an explanation, or a factual and legal basis, for the change in your eligibility, and because the Appeals Unit has not been able to find any appropriate basis for such a change, the February 10, 2017 eligibility determination notice is RESCINDED.

Decision

The February 10, 2017 eligibility determination notice is RESCINDED.

Your case is returned to NYSOH to restore your APTC effective March 1, 2017.

Effective Date of this Decision: July 20, 2017

How this Decision Affects Your Eligibility

You are eligible for APTC effective March 1, 2017.

This decision will have no effect on any notices issued after February 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.

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

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 fax: 1-855-900-5557

Summary

The February 10, 2017 eligibility determination notice is RESCINDED.

Your case is returned to NYSOH to restore your APTC effective March 1, 2017.

You are eligible for APTC effective March 1, 2017.

This decision will have no effect on any notices issued after February 2017.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

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).

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。我们可以为您免费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 مجانًا.

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 महत्त्वपूर्ण 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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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