



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

Notice of Decision

Decision Date: June 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016507

[REDACTED]

Dear [REDACTED],

On June 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 26, 2017 and March 3, 2017 eligibility determination 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 NY State of Health Account ID at the top of this notice.

Legal Authority

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).

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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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 your eligibility for advance payments of the premium tax credit (APTC) ended effective April 1, 2017?

Did NYSOH properly determine that your eligibility for APTC was effective April 1, 2017?

Procedural History

On November 21, 2016, NYSOH received your updated application for financial assistance.

On November 22, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$303.00 in APTC, and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan (QHP), effective January 1, 2017. This eligibility was for a limited time because more information was needed to confirm the information in your application. The notice further directed you to provide documentation confirming your income by February 19, 2017.

Also on November 22, 2016, NYSOH issued a notice confirming your enrollment in a Fidelis Care QHP with APTC and cost-sharing reductions, effective January 1, 2017. Your monthly premium was \$153.46 after the application of your APTC.

On February 26, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a QHP at full cost. The notice stated that you were not eligible to receive APTC or cost-sharing reductions because NYSOH had not received the income documentation needed to verify the income listed in your application. This eligibility was effective April 1, 2017.

On February 28, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a QHP with a monthly premium of \$456.46, and that this enrollment began on January 1, 2017.

On March 2, 2017, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were temporarily eligible to receive up to \$303.00 in APTC, and eligible for cost-sharing reductions, effective April 1, 2017. This eligibility was for a limited time because more information was needed to confirm the information in your application.

Also on March 2, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the month of March 2017.

On March 3, 2017, NYSOH issued a notice of eligibility determination, based on the March 2, 2017 application, stating that you were eligible to receive up to \$303.00 per month in APTC, and eligible for cost-sharing reductions, effective April 1, 2017. This eligibility was for a limited time because more information was needed to confirm the information in your application. The notice further directed you to provide documentation confirming your income by May 31, 2017.

Also on March 3, 2017, NYSOH issued a notice of enrollment confirmation confirming your enrollment in your Fidelis Care QHP beginning January 1, 2017. The notice stated that your monthly premium would be \$456.46.

On March 8, 2017, NYSOH issued a notice of enrollment confirmation confirming your enrollment in your Fidelis Care QHP beginning January 1, 2017. The notice stated that your APTC would be applied to your monthly premium beginning on April 1, 2017, and your monthly premium would be \$153.46, after the application of APTC.

On March 26, 2017, NYSOH redetermined your eligibility after verifying income documentation that you uploaded to your account.

On March 27, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for the Essential Plan with a \$20.00 monthly premium, effective May 1, 2017.

Also on March 27, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Essential Plan with a start date of May 1, 2017.

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On June 20, 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) You testified, and your account indicates, that you receive your notices from NYSOH by regular mail.
- 2) You testified that you did not receive any notices stating that your eligibility was only for a limited time, 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) You testified that you did your renewal in November 2016 by telephone, and that the NYSOH agent never indicated that you needed to submit any documentation. You testified that the agent informed you that they could pull your income information and that they did not need anything else from you.
- 5) You testified that you did not know that you needed to submit income documentation until you received an invoice from Fidelis for \$759.46 on March 1, 2017.
- 6) You testified that you called Fidelis to find out what happened, and were told not to pay the full \$759.46, but to pay \$456.46, which was one month's full premium payment.
- 7) You testified that you immediately called NYSOH and were told that NYSOH had sent you several documents regarding providing income documentation and the loss of your tax credits.
- 8) You testified that you had emphasized several times to NYSOH that your mail was unreliable, and that you were best reached by telephone or email.
- 9) Your NYSOH account reflects that, on February 25, 2017, your eligibility was redetermined, and you were found no longer eligible for APTC as of April 1, 2017.

- 10) You testified that you were finally asked by a NYSOH agent to provide a copy of your tax return, which you did, and that this resulted in you being eligible for coverage for only \$20.00 per month.
- 11) You testified that you paid \$153.46 per month for January and February 2017, and \$456.46 in March 2017. You testified that the next payment you made after the \$456.46 in March 2017 was a \$20.00 payment for your Essential Plan coverage.
- 12) You testified that Fidelis is not asking you for any money at this point, but that you are looking to be refunded the difference between your premium amount with the tax credit and the full premium amount because you paid the full premium for March 2017.
- 13) You testified that Fidelis told you that NYSOH took back some of the money that was paid on your behalf after you were found to be no longer eligible for APTC.

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 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 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 (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your eligibility for APTC ended effective April 1, 2017.

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 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, 2016, you were advised that you were eligible for APTC for a limited time, and that you needed to confirm your household's income before February 19, 2017.

You testified that you did not receive any notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. Your NYSOH account confirms that you are enrolled 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.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available from the

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data sources unless the applicant demonstrates that they are unable to provide the required documentation. Any changes in APTC are to be made effective the date following the eligibility redetermination notice.

Accordingly, your eligibility for APTC should have ended as of March 1, 2017, the month following the February 26, 2017 eligibility redetermination.

Therefore, the February 26, 2017 eligibility determination notice is MODIFIED to state that you were not eligible to receive APTC because NYSOH had not received the income documentation needed to verify the income listed in your application, effective March 1, 2017.

The second issue under review is whether NYSOH properly determined that the resumption of your eligibility for APTC was effective April 1, 2017.

On March 2, 2017, you updated the income information in your NYSOH account. On March 3, 2017, a notice of eligibility redetermination was issued stating that you were eligible to receive up to \$303.00 in APTC for a limited time, and eligible to receive cost-sharing reductions for a limited time, effective April 1, 2017.

As stated above, any changes in APTC are to be made effective the date following the eligibility redetermination notice.

Since you updated your application on March 2, 2017, any changes in APTC should have been made effective as of April 1, 2017.

Therefore, NYSOH's March 3, 2017 eligibility determination is correct and is AFFIRMED.

During the hearing, you testified that it was your understanding that your APTC was retroactively terminated, and that Fidelis charged you additional money to compensate for this. You testified that you paid \$153.46 in January and February 2017, which, according to your NYSOH account, was the amount of your QHP premium after the application of your \$303.00 tax credit, but that you had to pay the full premium - \$456.46 – in March 2017.

Any changes in APTC are to be made effective the date following the eligibility determination notice. Accordingly, your APTC should have only been affected as of March 1, 2017, the month following the February 26, 2017 eligibility redetermination. Therefore, it would have been proper for your QHP to require you to pay the full month's premium for March 2017, as your APTC was not in effect during that month.

However, NYSOH Appeals Unit does not have authority to hear issues involving QHP billing and payments. Therefore, your case is RETURNED to Plan

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Management to investigate whether you have been incorrectly billed additional amounts by your plan for months when you should have been receiving APTC.

Decision

The February 26, 2017 notice of eligibility determination is MODIFIED to state that you were not eligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application, effective March 1, 2017.

The March 3, 2017 notice of eligibility determination is AFFIRMED.

Your case is RETURNED to Plan Management to investigate whether your plan incorrectly billed you additional amounts for any months in 2017 when you should have been receiving APTC.

Effective Date of this Decision: June 28, 2017

How this Decision Affects Your Eligibility

You were not eligible to receive APTC effective March 1, 2017 because you did not provide documentation of your household's income to NYSOH.

NYSOH properly found that your renewed eligibility for APTC was effective April 1, 2017.

Your case is also being sent back so that Plan Management can investigate your claim whether your QHP incorrectly billed you additional amounts for any months in 2017 when you should have had APTC.

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.

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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
- By fax: 1-855-900-5557

Summary

The February 26, 2017 notice of eligibility determination is MODIFIED to state that you were not eligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application, effective March 1, 2017.

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The March 3, 2017 notice of eligibility determination is AFFIRMED.

Your case is RETURNED to Plan Management to investigate whether your plan incorrectly billed you additional amounts for any months in 2017 when you should have been receiving APTC.

You were not eligible to receive APTC effective March 1, 2017 because you did not provide documentation of your household's income to NYSOH.

NYSOH properly found that your renewed eligibility for APTC was effective April 1, 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।

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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&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.

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