



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

Notice of Decision

Decision Date: July 27, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016623

[REDACTED]

Dear [REDACTED],

On July 3, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 8, 2017 and February 28, 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

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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NY State of Health Account ID: [REDACTED]
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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 March 1, 2017?

Did NYSOH properly determine that you were eligible to purchase a qualified health plan at full cost, effective April 1, 2017?

Procedural History

On November 18, 2016, you submitted an application for financial assistance.

On November 19, 2016, NYSOH issued a notice of eligibility determination stating that for a limited time, you were eligible to receive up to \$265.00 in APTC and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective January 1, 2017. That notice also directed you to produce income documentation by February 1, 2017.

Also on November 19, 2016, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in a qualified health plan, effective January 1, 2017.

On January 25, 2017, NYSOH received income documentation via regular mail. The envelope was postmarked January 23, 2017.

On February 7, 2017, an application for financial assistance was run on your behalf.

On February 8, 2017, NYSOH issued an eligibility determination notice, stating that you were eligible to purchase a qualified health plan at full cost, effective March 1, 2017. The notice stated this was because NYSOH had not received the requested documentation by the deadline.

Also on February 8, 2017, NYSOH issued an enrollment confirmation notice stating you were enrolled in a qualified health plan, effective January 1, 2017.

On February 13, 2017, NYSOH received your updated application for health insurance.

On February 14, 2017, NYSOH issued an eligibility determination notice, stating that for a limited time you were eligible to receive up to \$293.00 in APTC and eligible to receive cost-sharing reductions if you reenrolled in a silver level qualified health plan, effective March 1, 2017. The notice also directed you to produce income documentation by May 14, 2017.

On February 19, 2017, NYSOH issued an enrollment confirmation notice stating you were enrolled in a qualified health plan, effective January 1, 2017.

On February 27, 2017, NYSOH validated your income documentation and an application for financial assistance for health insurance was run on your behalf.

On February 28, 2017, NYSOH issued an eligibility determination notice, stating that you were eligible to purchase a qualified health plan at full cost, if you were qualified for a special enrollment period, effective April 1, 2017.

On March 1, 2017, NYSOH issued an enrollment confirmation notice stating you were enrolled in a qualified health plan, effective January 1, 2017.

On March 6, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC effective March 1, 2017. You also requested Aid to Continue pending the outcome of your appeal.

On March 16, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for APTC for a limited time because you had been granted Aid to Continue until a decision is made on your appeal.

On July 3, 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 that you expect to file your 2017 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 2) You are seeking insurance for yourself.
- 3) You mailed a draft of your 2016 tax return to NYSOH on January 23, 2017. The record reflects that NYSOH received this documentation on January 25, 2017, and it was uploaded to your online account on February 15, 2017.
- 4) Your NYSOH account indicates that on February 7, 2017, your application was run and you were found no longer eligible for APTC as of March 1, 2017 because NYSOH had not received income documentation.
- 5) The application that was submitted on February 27, 2017 listed annual household income of \$53,604.00.
- 6) The February 27, 2017 application was submitted by an NYSOH representative and the income was updated to be based on the 2016 income tax return you submitted. The NYSOH representative entered into your application an earned income of \$26,802.00, additional income of \$35,847.00, and deductions of \$9,045.00.
- 7) Your 2016 tax return shows that you had a total income of \$35,847.00 and deductions of \$9,045.00. Line 37 of your 2016 tax return shows that your adjusted gross income in 2016 was \$26,802.00.
- 8) You testified that you anticipate earning the same in 2017 as you did in 2016.
- 9) 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

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

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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 individual's 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 in order 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)).

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 qualified health plan (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)).

Modified Adjusted Gross Income

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NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross federal taxable income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your eligibility for advance payments of the premium tax credit ended effective March 1, 2017.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her 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 19, 2016, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household’s income before February 1, 2017.

The record reflects that NYSOH received the requested income documentation on January 25, 2017, before the deadline.

Since you submitted your income documentation prior to the deadline, the February 8, 2017 eligibility determination stating that you are no longer eligible for APTC because you failed to submit documentation is **RESCINDED**.

The second issue is whether NYSOH properly determined that you were eligible to purchase a qualified health plan at full cost, effective April 1, 2017.

You are in a one-person household. You expect to file your 2017 income taxes as single and will claim no dependents on that tax return.

On February 27, 2017, NYSOH validated your 2016 tax return as satisfactory documentation of your income and an application for financial assistance was run on your behalf by an NYSOH representative. The NYSOH representative entered into your application an earned income of \$26,802.00, additional income of \$35,847.00, and deductions of \$9,045.00. This resulted in an annual household income of \$53,604.00.

However, NYSOH bases its eligibility determinations on modified adjusted gross income, which is adjusted gross income increased by any income that was excluded for United States citizens or residents living abroad, tax-exempt interest received or accrued, and Social Security benefits that were excluded from gross income. Adjusted gross income means gross federal taxable income minus certain specific deductions.

Your 2016 tax return, which the NYSOH representative allegedly relied on when entering the income amounts, shows that in 2016 you had a total income of \$35,847.00 and deductions of \$9,045.00, which results in an adjusted gross income of \$26,802.00.

Therefore, the February 27, 2017 application was erroneously submitted to include your earned income and adjusted gross income. The application should have contained your earned income and deductions from your tax return OR your adjusted gross income from your tax return only.

Since the February 28, 2017 eligibility determination notice is not supported by the documentation you provided as well as your credible testimony during the hearing it is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance with an annual expected income of \$26,802.00 for a household size of one person residing in [REDACTED]. NYSOH is directed to make any eligibility that results from this redetermination effective as of March 1, 2017 since NYSOH erred in ending your APTC for the month of March 2017 for failure to submit documentation.

Decision

The February 8, 2017 eligibility determination notice is RESCINDED.

The February 28, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance with an annual expected income of \$26,802.00 for a household size of one person residing in [REDACTED]. NYSOH is directed to make any eligibility that results from this redetermination effective as of March 1, 2017 since NYSOH erred in ending your APTC for the month of March 2017 for failure to submit documentation.

Effective Date of this Decision: July 27, 2017

How this Decision Affects Your Eligibility

NYSOH improperly discontinued your APTC as of March 1, 2017 for failure to submit income documentation.

NYSOH improperly determined your eligible for a full pay qualified health plan based on an incorrect income as of April 1, 2017.

Your case is being sent back to NYSOH to redetermine your eligibility based on the documentation you submitted and to make any eligibility that results from that redetermination effect as of March 1, 2017. NYSOH will notify you accordingly.

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

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 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):

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- 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 8, 2017 eligibility determination notice is RESCINDED.

NYSOH improperly discontinued your APTC as of March 1, 2017 for failure to submit income documentation.

The February 28, 2017 eligibility determination notice is RESCINDED.

NYSOH improperly determined your eligible for a full pay qualified health plan based on an incorrect income as of April 1, 2017.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance with an annual expected income of \$26,802.00 for a household size of one person residing in [REDACTED]. NYSOH is directed to make any eligibility that results from this redetermination effective as of March 1, 2017

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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 مجاناً.

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&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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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