



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: AP000000016800



Dear [REDACTED],

On June 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 22, 2017 and March 14, 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: June 28, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000016800



## 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 APTC was effective April 1, 2017?

## Procedural History

On November 17, 2016, you updated your NYSOH application and filed an application for financial assistance.

On November 18, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$374.00 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 15, 2017.

Also on November 18, 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 \$122.95 after the application of your APTC.

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On February 22, 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 did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective April 1, 2017.

On February 22, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a QHP with a monthly premium of \$496.95, and that this enrollment began on January 1, 2017.

On March 13, 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 \$348.00 in APTC, 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 13, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the months of January, February, and March 2017.

On March 14, 2017, NYSOH issued a notice of eligibility determination, based on the March 13, 2017 application, stating that you were eligible to receive up to \$348.00 per month in APTC, 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 June 11, 2017.

Also on March 14, 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 \$148.95, after the application of APTC.

On April 21, 2017, NYSOH uploaded a faxed copy of your 2016 federal income tax return to your NYSOH account and reran your application for financial assistance.

On April 22, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$348.00 per month in APTC, and not eligible for cost-sharing reductions, effective June 1, 2017.

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 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 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.
- 5) You testified that you did not know that you needed to submit documentation of your income until you received a bill from Fidelis Care for \$870.95 in March 2017.
- 6) You testified that your monthly premium payment is auto-debited from your account, so you contacted Fidelis to find out if, for some reason, the payments had not been made.
- 7) You testified that Fidelis informed you that they were receiving your automatic payments, but that NYSOH was no longer paying a portion of your premium, and that you needed to call NYSOH to follow up.
- 8) You testified that you contacted NYSOH and were told that you had no supplied a copy of your tax return as directed.
- 9) Your NYSOH account indicates that on February 21, 2017, your application was run and you were found no longer eligible for APTC as of April 1, 2017,
- 10) You updated the income information in your NYSOH account on March 13, 2017, and then faxed a copy of your 2016 income tax return to NYSOH, which was uploaded to your account on April 21, 2017.
- 11) You testified that you are still being asked to pay the full premiums for the months of January, February, and March by Fidelis Care, and that they have threatened to terminate your coverage.

- 12) You testified that you had a three-way phone call with NYSOH and Fidelis approximately a month ago, and that the NYSOH representative agreed that you owed the full premiums for those months.
- 13) You testified that you received a bill stating that \$531.00 is past due, in May 2017, but you are not sure what this amount represents. You testified that the bill also indicates that \$148.95 was paid for your premium, which, according to your NYSOH account, is your current monthly premium after the application of your APTC.
- 14) You testified that you are seeking reinstatement of your APTC for January, February, and March 2017.
- 15) You testified that you cannot afford to pay the amount of money that Fidelis is asking you to pay, and that you may lose your insurance if you are required to pay this money.

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 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)).

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)).

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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 March 31, 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 18, 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 15, 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. 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.

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 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.

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).

Accordingly, your eligibility for APTC should have ended as of March 1, 2017, the month following the February 22, 2017 eligibility redetermination.

Therefore, the February 22, 2017 eligibility determination notice 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 second issue under review is whether NYSOH properly determined that your eligibility for APTC was effective April 1, 2017.

On March 13, 2017, you updated the income information in your NYSOH account. On March 14, 2017, a notice of eligibility redetermination was issued stating that you were eligible to receive up to \$348.00 in APTC 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 13, 2017, any changes in APTC should have been made effective as of April 1, 2017,

Therefore, NYSOH's March 14, 2017 eligibility determination is correct and is AFFIRMED.

During the hearing, you testified that your understanding was that your APTC was retroactively terminated for the months of January and February 2017, and that Fidelis Care is now directing you to pay the full premium for coverage for the months of January, February, and 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 for the month of March 2017 - the month following the February 22, 2017 eligibility redetermination. NYSOH Appeals Unit does not have authority to hear issues involving QHP billing and payments. Therefore, your case is RETURNED to Plan Management in order to investigate whether or not your plan is incorrectly billing you for months when you should have been receiving APTC, including, but not limited to, January and February 2017.

## **Decision**

The February 22, 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.

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).



The March 14, 2017 notice of eligibility determination is AFFIRMED.

Your case is RETURNED to Plan Management to investigate whether your plan is incorrectly billing you additional amounts for months when you should have been receiving APTC, including, but not limited to, January and February 2017.

**Effective Date of this Decision:** June 28, 2017

### **How this Decision Affects Your Eligibility**

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

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 that your QHP retroactively terminated your APTC and is charging you additional amounts for the full premium for January and 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:

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).

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 22, 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 14, 2017 notice of eligibility determination is AFFIRMED.

Your case is RETURNED to Plan Management to investigate whether your plan is incorrectly billing you additional amounts for months when you should have been receiving APTC, including, but not limited to, January and February 2017.

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

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

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).

## **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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## **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. y&b&tumi 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.

## **שׂוֹדֵשׁ (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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