



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

Notice of Decision

Decision Date: July 6, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016960

[REDACTED]

Dear [REDACTED]

On June 19, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 7, 2017 eligibility determination notice and the March 18, 2017 eligibility determination notice.

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 6, 2017

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000016960



Issues

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

Did NY State of Health (NYSOH) properly determine your eligibility for advance payments of the premium tax credit ended April 1, 2017?

Did NYSOH properly determined your eligibility to receive advance payments of the premium tax credit resumed no earlier than May 1, 2017?

Procedural History

On December 1, 2016, NYSOH issued a notice of eligibility determination stating you were eligible to receive up to \$295.00 in advance payments of the premium tax credit (APTC), for a limited time, and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective January 1, 2017. The notice directed you to provide documentation confirming your income before February 28, 2017 or you might lose your insurance or receive less help paying for your coverage.

On December 14, 2016, NYSOH issued a notice confirming your enrollment in a qualified health plan with APTC and cost-sharing reductions, effective January 1, 2017.

No documentation was received by NYSOH by February 28, 2017.

On March 7, 2017, NYSOH issued an eligibility determination notice, based on a March 6, 2017 systematic eligibility redetermination, stating you were newly

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eligible to purchase a qualified health plan at full cost. The notice stated 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.

Also on March 7, 2017, NYSOH issued an enrollment confirmation notice stating you were enrolled in a qualified health plan with \$0.00 of APTC applied to your premium.

On March 17, 2017, NYSOH received your updated application for health insurance and a preliminary determination was prepared that day finding you conditionally eligible to receive up to \$295.00 in APTC, effective May 1, 2017.

Also on March 17, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the month of April 2017.

On March 18, 2017, NYSOH issued an eligibility determination notice, based on your March 17, 2017 updated application, stating you were eligible to receive up to \$295.00 in APTC, for a limited time, and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective May 1, 2017. The notice further directed you to provide documentation confirming your income before June 15, 2017 or you might lose your insurance or receive less help paying for your coverage.

Also on March 18, 2017, NYSOH issued a notice confirming your enrollment in a qualified health plan with APTC applied to your monthly premium, effective April 1, 2017.

On June 19, 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) An updated application for financial assistance with health insurance was submitted on your behalf on November 30, 2016.
- 2) According to your account, NYSOH was unable to verify the income information listed in that application and income documentation was requested to confirm your eligibility to receive APTC.
- 3) You testified that a Certified Application Counselor (CAC) from your health plan completed your application online on your behalf. You

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testified the CAC did not advise you that you needed to send proof of your income to confirm your eligibility.

- 4) You testified, and your account indicates, that you receive all your notices from NYSOH by regular mail.
- 5) You testified that you received the December 1, 2017 eligibility determination notice issued by NYSOH, but that you did not read the entire notice and you were unaware you were required to submit proof of your income to confirm your eligibility to receive tax credits.
- 6) According to your account, NYSOH did not receive proof of your income by the February 28, 2017 deadline.
- 7) NYSOH systematically redetermined your eligibility for financial assistance on March 6, 2017 and found you were no longer eligible to receive APTC, effective April 1, 2017, because you failed to submit proof of your income by the deadline.
- 8) You testified you received a notice from NYSOH in March 2017 indicating you were no longer eligible to receive APTC and you called NYSOH immediately to update your account.
- 9) Your account confirms that an updated application was submitted on your behalf on March 17, 2017 and you were determined conditionally eligible to receive up to \$295.00 in APTC, effective May 1, 2017. The notice again directed you to submit proof of your income to confirm your eligibility by June 15, 2017.
- 10) You testified that you did not know you needed to submit documentation of your income until you were informed by a NYSOH representative during the March 17, 2017 telephone call.
- 11) You testified, and your account confirms, you submitted a copy of your 2015 tax return in April 2017. According to your account, this document was never verified by NYSOH.
- 12) The enrollment confirmation notice issued on March 18, 2017 indicates you were enrolled in a qualified health plan with APTC applied to your monthly premium starting April 1, 2017.
- 13) You testified you were advised by the NYSOH representative on March 17, 2017 that you would have a gap for the month of April where you would not receive APTC and that you filed an appeal based on this information.

- 14) You testified you do not know if you received a tax credit for the month of April 2017.
- 15) You testified you paid the same amount to your health plan in April 2017 as you paid every other month in 2017, \$289.57. Your account confirms this is the amount of your monthly premium with APTC applied.

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 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 issue under review is whether NYSOH properly determined 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 December 1, 2016, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income before February 28, 2017.

You testified that you were unaware you were required to submit proof of your income to confirm your eligibility until you spoke with a NYSOH representative on March 17, 2017. However, you testified you received the December 1, 2016 eligibility determination notice issued by NYSOH. Your account confirms this notice stated that your eligibility to receive APTC was only for a limited time and you must submit proof of your income by February 28, 2017 or you might lose your insurance or receive less help paying for your coverage. You testified you must not have read the whole notice. Based on this evidence, it is concluded that NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the application.

Pursuant to the regulations, 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 first day of the month *immediately* following the eligibility redetermination notice, regardless of when during the month, the eligibility changes.

Because you did not submit documentation to confirm the income amount listed in your November 30, 2016 application, NYSOH systematically redetermined your eligibility on March 6, 2017 and determined you were not eligible to receive

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APTC. According to the regulations, your eligibility for APTC should have ended as of April 1, 2017, the first day of the month following the March 7, 2017 eligibility redetermination.

Therefore, the March 7, 2017 eligibility determination notice stating you were not eligible to receive APTC, effective April 1, 2017, because NYSOH did not receive the income documentation needed to verify the income listed in your application, is correct and must be AFFIRMED.

The second issue under review is whether NYSOH properly determined your eligibility to receive APTC resumed no earlier than May 1, 2017.

On March 17, 2017, an updated application for financial assistance was submitted on your behalf. On March 18, 2017, NYSOH issued an eligibility determination notice indicating you were conditionally eligible to receive up to \$295.00 in APTC, effective May 1, 2017.

As stated above, any changes in APTC are to be made effective the first day of the month following the eligibility redetermination notice.

Since you updated your application on March 17, 2017, the reinstatement of APTC should have been made effective the first day of the month following that eligibility determination; that is, April 1, 2017, and there should have been no gap in your receipt of APTC.

Therefore, NYSOH's March 18, 2017 eligibility determination notice is MODIFIED to reflect you were conditionally eligible to receive up to \$295.00 in APTC, effective April 1, 2017.

It is noted that although the March 18, 2017 eligibility determination notice indicates you were not eligible to receive APTC until May 1, 2017, the enrollment confirmation notice issued the same day indicates APTC would be applied to your monthly premium starting April 1, 2017. Additionally, you testified you do not know whether you received a tax credit for the month of April 2017, because you paid the same amount to the health plan in April 2017 as you had in previous months.

Therefore, your case is RETURNED to NYSOH to reinstate your APTC for the month of April 2017 to the extent you did not receive the proper tax credit in accordance with this decision for that month.

Decision

The March 7, 2017 notice of eligibility determination is **AFFIRMED**.

The March 18, 2017 notice of eligibility determination is **MODIFIED** to reflect you were conditionally eligible to receive up to \$295.00 in APTC, effective April 1, 2017.

Your case is **RETURNED** to NYSOH to reinstate your APTC for the month of April 2017 to the extent you did not receive the proper tax credit, in accordance with this decision, for that month.

Effective Date of this Decision: July 6, 2017

How this Decision Affects Your Eligibility

NYSOH properly found you were not eligible to receive APTC, effective April 1, 2017, because you did not provide documentation of your household's income within the required timeframe.

Your eligibility to receive APTC should have resumed, effective April 1, 2017, so you should not have had a gap in receipt of APTC.

Your case is also being sent back to NYSOH to reinstate your APTC for the month of April 2017 to the extent you did not receive the proper tax credit that month.

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

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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 March 7, 2017 notice of eligibility determination is **AFFIRMED**.

The March 18, 2017 notice of eligibility determination is **MODIFIED** to reflect you were conditionally eligible to receive up to \$295.00 in APTC, effective April 1, 2017.

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Your case is RETURNED to NYSOH to reinstate your APTC for the month of April 2017 to the extent you did not receive the proper tax credit, in accordance with this decision, for that month.

NYSOH properly found you were not eligible to receive APTC, effective April 1, 2017, because you did not provide documentation of your household's income within the required timeframe.

Your eligibility to receive APTC should have resumed, effective April 1, 2017, so you should not have had a gap in receipt of APTC.

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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