



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

Notice of Decision

Decision Date: August 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017135

[REDACTED]

Dear [REDACTED],

On June 28, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 9, 2017, April 21, 2017, and June 3, 2017 eligibility determination notices and July 2, 2017 and July 11, 2017 enrollment confirmation 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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Decision Date: August 22, 2017

NY State of Health Account ID: [REDACTED]
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[REDACTED]

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 children's eligibility and enrollment in their Child Health Plus plan was effective April 1, 2017?

Did NYSOH properly determine that you and your spouse's eligibility and enrollment in a qualified health plan (QHP) with an advance premium tax credit (APTC) in the amount of \$392.00 per month, was effective April 1, 2017?

Procedural History

On July 18, 2016, you submitted an application for non-financial assistance.

On July 19, 2016, NYSOH issued a notice of eligibility determination stating that you and your child were eligible for a full cost QHP, effective September 1, 2016.

Also on July 19, 2016, NYSOH issued a notice of enrollment confirmation stating that you and your child were enrolled in full cost QHP beginning on August 1, 2016.

Your youngest child was born on [REDACTED].

On October 12, 2016, you submitted an application for non-financial assistance.

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On October 13, 2016, NYSOH issued a notice of eligibility determination stating that you and your children were eligible for a full cost QHP, effective November 1, 2016.

Also on October 13, 2016, NYSOH issued a notice of enrollment confirmation stating that you and your children remained enrolled in a QHP at full cost, effective August 1, 2016.

On October 22, 2016, NYSOH issued a renewal notice stating that you and your oldest child were re-enrolled in your silver level QHP and that you both continued to be eligible to purchase a QHP at full cost, effective January 1, 2017.

On November 16, 2016, NYSOH issued a renewal notice stating that based on the information from federal and state sources, NYSOH could not make a decision about whether or not you and your oldest child qualified for health coverage. The notice directed you to update your account by December 15, 2016. The notice stated that if you miss the deadline, your coverage in 2016 may not be continued.

On November 17, 2016, you submitted an application for non-financial assistance. The application stated that your spouse was seeking health insurance.

On November 18, 2016, NYSOH issued a notice of eligibility determination stating that you, your spouse and your children were eligible for a full cost QHP, effective January 1, 2017.

Also on November 18, 2016, you and your two children enrolled in a full cost QHP with an effective start date of January 1, 2017. You testified that your spouse did not enroll in a health plan.

On January 12, 2017, you submitted an application for non-financial assistance.

On January 13, 2017, NYSOH issued a notice of eligibility determination stating that you, your spouse and children were eligible to enroll in a QHP at full cost, effective February 1, 2017.

On March 8, 2017, you submitted an application for financial assistance.

On March 9, 2017, NYSOH issued a notice of eligibility determination, based on your March 8, 2017 application, stating that your children were eligible to enroll in Child Health Plus with a \$30.00 monthly premium each, and that you and your spouse were eligible to enroll in a QHP with an APTC in the amount of \$392.00 per month, effective April 1, 2017.

Also on March 9, 2017, you attempted to enroll your children into a Child Health Plus plan and you and your spouse into a QHP.

On March 22, 2017, you spoke to NYSOH's Account Review Unit and appealed the inability of your children to enroll in a Child Health Plus plan effective April 1, 2017 and you and your spouse's inability to enroll in a QHP with APTC in the amount of \$392.00 per month effective April 1, 2017.

On April 20, 2017, you updated your application for financial assistance.

On April 21, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible for an APTC in the amount of \$450.00 per month and your children were eligible for Child Health Plus with a monthly premium amount of \$30 each, effective June 1, 2017.

On June 1, 2017, NYSOH issued a disenrollment notice stating that you and your children's enrollment in your full cost QHP ended effective May 31, 2017 based on your request to cancel coverage on May 31, 2017.

On June 3, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible for an APTC in the amount of \$450.00 per month and your children were eligible for Child Health Plus with a monthly premium amount of \$30 each, effective July 1, 2017.

On June 28, 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.

On July 2, 2017, NYSOH issued a notice of enrollment confirmation stating that your children were enrolled in a Child Health Plus plan, with a \$30.00 per month premium each, effective August 1, 2017. The notice also stated that you and your spouse were enrolled in a QHP, with an APTC in the amount of \$450.00 per month, effective August 1, 2017.

On July 11, 2017, NYSOH issued a notice of enrollment confirmation stating that your children were enrolled in a Child Health Plus plan, with a \$30.00 per month premium each, effective June 1, 2017.

Findings of Fact

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

- 1) You testified that you are appealing your children's inability to enroll in a Child Health Plus plan effective April 1, 2017.

- 2) You testified that you are also appealing you and your spouse's inability to enroll in a QHP and to receive an APTC in the amount of \$392.00 effective April 1, 2017.
- 3) NYSOH records reflect that you and your oldest child were enrolled in full cost QHP beginning on August 1, 2016.
- 4) Your youngest child was born on [REDACTED].
- 5) You testified that you did not seek financial assistance from NYSOH during the time you were pregnant and gave birth because you did not want to change medical providers. You testified that this was the reason you paid for a full cost QHP for you and your children during August 2016 through November 2016.
- 6) On November 17, 2016, you submitted an application for non-financial assistance.
- 7) On November 18, 2016, you and your two children enrolled in a full cost QHP with an effective start date of January 1, 2017. You testified that your spouse did not enroll in a QHP due to the cost being too expensive.
- 8) You testified that you decided that you and your two children would remain enrolled in a full cost QHP because your youngest child had medical issues and subsequently had [REDACTED] on [REDACTED]. You testified that you remained with your full cost QHP because your pediatrician was not covered under Child Health Plus.
- 9) You submitted an application to NYSOH for non-financial assistance on January 12, 2017.
- 10) On January 13, 2017, NYSOH issued a determination stating that you, your spouse and your children were eligible for a full cost QHP, effective February 1, 2017. At the time this notice was issued, you and your children were currently enrolled in a full cost QHP.
- 11) You testified, and NYSOH records reflect that you, and your two children enrolled in a full cost QHP, effective January 1, 2017.
- 12) You testified that March 8, 2017 was the first time that you submitted an application for financial assistance to NYSOH for 2017.
- 13) You testified, and the record reflects, that on March 8, 2017 that your children were determined eligible for Child Health Plus, and that you and your spouse were determined eligible for a QHP with APTC, effective April 1, 2017.

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- 14) You testified that despite your children being determined eligible for Child Health Plus and you and your spouse being determined eligible for a QHP with APTC, that on March 9, 2017 you were unable to select a plan for enrollment.
- 15) You testified that on March 9, 2017 you contacted NYSOH and that you were advised by a NYSOH representative that due to a system defect that you and the members of your family were unable to enroll in a plan on that date.
- 16) NYSOH records dated May 22, 2017 state "Adding created date to defects and status [REDACTED]-12/07/2016, Closed 03/09/2017."
- 17) NYSOH records reflect that on July 10, 2017 your children's Child Health Plus coverage was backdated to June 1, 2017.
- 18) You testified that you would like your children's Child Health Plus plan to begin on April 1, 2017 and for you and your spouse's enrollment in a QHP with APTC be effective April 1, 2017.

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

Applicable Law and Regulations

Child Health Plus

The "period of eligibility" for Child Health Plus is "that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information and documentation and ending on the last day of the twelfth month following such date," unless the CHP premiums are not timely paid or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law § 2510(6)).

"A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage" (42 CFR § 457.340(f)).

The State of New York has provided that a child's period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month, if the application is

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received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second following month (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

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)).

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 children's eligibility in their Child Health Plus plan was effective April 1, 2017.

You testified that March 8, 2017 was the first date that you submitted a financial assistance application to NYSOH for 2017. You testified that your March 8, 2017 application resulted in a March 9, 2017 notice from NYSOH stating that your children were eligible to enroll in Child Health Plus with a \$30.00 monthly premium each, effective April 1, 2017.

You testified that despite your children being determined eligible for Child Health Plus on March 8, 2017, you were unable to select a plan for them on that date. You testified that on March 9, 2017 you contacted NYSOH and that you were advised by a NYSOH representative that due to a system defect that you and the members of your family were unable to enroll in a plan on that date.

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Your inability to select a plan on March 9, 2017 for your children is confirmed by NYSOH notes dated May 22, 2017 which reported a system defect, [REDACTED] which lasted until March 9, 2017. As such, you were improperly prevented from selecting a plan for your children on March 9, 2017.

The date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Had you been able to select a plan on March 9, 2017, coverage would have begun on April 1, 2017.

Therefore, your children's enrollment in their Child Health Plus plan should have been effective April 1, 2017.

Accordingly, the March 9, 2017 eligibility determination notice is AFFIRMED, the April 21, 2017 and June 3, 2017 eligibility determination notices as well as the July 2, 2017 and July 11, 2017 enrollment confirmation notices are MODIFIED to reflect your children's Child Health Plus start date of April 1, 2017.

The second issue under review is whether NYSOH properly determined that you and your spouse's eligibility and enrollment in a QHP with an APTC in the amount of \$392.00 per month, was effective April 1, 2017.

You testified that March 8, 2017 was the first time that you submitted an application for financial assistance to NYSOH for 2017. On March 9, 2017, NYSOH issued a notice of eligibility determination, based on your March 8, 2017 application, stating that you and your spouse were eligible for an APTC in the amount of \$392.00 per month, effective April 1, 2017.

You testified that you attempted to select a QHP for you and your spouse on March 9, 2017 after you found out that you and your spouse were eligible for enrollment. You testified that you were unable to select a plan for you and your spouse on March 9, 2017. You testified that on March 9, 2017 you contacted NYSOH and that you were advised by a NYSOH representative that due to a system defect that you and the members of your family were unable to enroll in a plan on that date.

Your inability to select a plan on March 9, 2017 for you and your spouse is confirmed by NYSOH notes dated May 22, 2017 which reported a defect, [REDACTED], which existed until March 9, 2017. As such, you were improperly prevented from selecting a QHP with an APTC of \$392.00 per month for you and your spouse on that date.

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Again, had you been able to select a plan on March 9, 2017, coverage would have begun on April 1, 2017.

Therefore, the March 9, 2017 eligibility determination notice is **AFFIRMED** and your case is being **RETURNED** to NYSOH to reinstate you and your spouse's QHP coverage, effective April 1, 2017 and to adjust your APTC accordingly.

Decision

The March 9, 2017 eligibility determination notice is **AFFIRMED**.

The April 21, 2017 and June 3, 2017 eligibility determination notices are **MODIFIED** to reflect your children's Child Health Plus start date of April 1, 2017.

The July 2, 2017 and July 11, 2017 enrollment confirmation notices are **MODIFIED** to reflect your children's Child Health Plus start date of April 1, 2017.

Your case is being **RETURNED** to NYSOH to reinstate your children's coverage in their Child Health Plus plan, effective April 1, 2017.

Your case is being **RETURNED** to NYSOH to reinstate you and your spouse's QHP coverage, effective April 1, 2017 and to adjust your APTC accordingly.

Effective Date of this Decision: August 22, 2017

How this Decision Affects Your Eligibility

Your case is being **RETURNED** to NYSOH to reinstate your children's coverage in their Child Health Plus plan, effective April 1, 2017.

The effective date of your children's Child Health Plus plan is April 1, 2017.

You may be responsible for additional premiums.

Your case is being **RETURNED** to NYSOH to reinstate you and your spouse's QHP coverage, effective April 1, 2017 and to adjust your APTC 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.

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).

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:
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- By fax: 1-855-900-5557

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Summary

The March 9, 2017 eligibility determination notice is AFFIRMED.

The April 21, 2017 and June 3, 2017 eligibility determination notices are MODIFIED to reflect your children's Child Health Plus start date of April 1, 2017.

The July 2, 2017 and July 11, 2017 enrollment confirmation notices are MODIFIED to reflect your children's Child Health Plus start date of April 1, 2017.

Your case is being RETURNED to NYSOH to reinstate your children's coverage in their Child Health Plus plan, effective April 1, 2017.

You may be responsible for additional premiums.

Your case is being RETURNED to NYSOH to reinstate you and your spouse's QHP coverage, effective April 1, 2017 and to adjust your APTC accordingly.

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 مجانًا.

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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