



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

Notice of Decision

Decision Date: July 31, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017152

[REDACTED]

Dear [REDACTED],

On June 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 22, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: July 31, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017152

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

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

Procedural History

On November 18, 2016, NYSOH issued an eligibility determination notice stating that you were conditionally eligible to receive up to \$123.00 in advance payments of the premium tax credit (APTC), effective January 1, 2017. The notice also directed you to provide documentation confirming your income before February 15, 2017.

On November 18, 2016, NYSOH issued a plan enrollment notice confirming your enrollment in platinum-level qualified health plan with APTC to be applied as of January 1, 2017.

On February 22, 2017 NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan 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.

Also on February 22, 2017, NYSOH issued a plan enrollment notice confirming you were enrolled in a platinum-level qualified health plan with \$0.00 APTC applied to your premium with an enrollment start date of January 1, 2017.

On March 22, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC.

On June 27, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open up to July 11, 2017, to allow you to submit supporting documents.

On June 30, 2017, NYSOH Appeals Unit received your five-page facsimile consisting of copies of your 2015 and 2016 Income Tax Returns. These documents have been made part of the record collectively as "Appellant's [REDACTED]."

Findings of Fact

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

- 1) According to your testimony, you are seeking insurance for yourself.
- 2) According to your NYSOH account and your testimony, you expect to file a 2017 federal income tax return with a tax status of married filing jointly. You do not expect to claim any dependents on that return.
- 3) According to your NYSOH account and your testimony, you do not earn any income and your spouse receives about \$2,100.00 a month in Social Security benefits and about \$1,600.00 a month in IRA distributions for a total annual household income of \$44,400.00. You testified that this was accurate.
- 4) According to your NYSOH account and your testimony, you receive all of your notices from NYSOH by regular mail.
- 5) You testified that you did not receive any notices stating that your eligibility was only conditional and that you needed to provide documentation of your household's income.
- 6) No notices that were sent to the mailing address listed on your NYSOH account have been returned as undeliverable.
- 7) You testified that you did not know that you needed to submit documentation of your income until you went to the pharmacy to re-fill a prescription and were told that there was a hold on your account.

- 8) You testified that your spouse called NYSOH and was informed that because you had never sent in the household income information your APTC had been terminated.
- 9) Your NYSOH account indicates that, on February 21, 2017, your application was run and you were found no longer eligible for APTC.
- 10) Your 2016 Income Tax Return shows household Social Security Benefits of \$25,777.00, IRA distributions of \$22,156.00 and taxable interest of \$66.00 for a total household income of \$47,999.00. The taxable amount of the Social Security benefits was \$1,556.00.
- 11) According to your NYSOH account you reside in [REDACTED], New York.
- 12) You testified that you are seeking reinstatement of your APTC.

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

Applicable Law and Regulations

Modified Adjusted Gross Income

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)).

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)).

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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 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)).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2016 FPL, which is \$16,020.00 for a two-person household (81 Federal Register 4036).

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 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 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.

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In the eligibility determination issued on November 18, 2017, you were advised that your eligibility for APTC was only conditional, 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. AS such, the notice is deemed sent and received.

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 as of the first day of the month following the date of the eligibility redetermination notice.

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.

During the hearing, you testified that your 2016 Income Tax Return is an accurate reflection of your household income and the Hearing Officer requested you submit a copy for the record. The 2016 Income Tax Return you submitted with Appellant [REDACTED] shows Social Security Benefits of \$25,777.00, IRA distributions of \$22,156 and taxable interest of \$66.00. However, the taxable amount of the Social Security benefits was only \$1,556. NYSOH bases its eligibility determinations on modified adjusted gross income which includes the full amount of Social Security benefits received by the household. Therefore your 2016 household income was \$47,999.00.

Since the record now accurately reflects your projected household income for 2017, your case is RETURNED to NYSOH to recalculate your eligibility for financial assistance based on a two-person household for an individual living in [REDACTED], New York, with an expected household of \$47,999.00, and to notify you accordingly.

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

Decision

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.

Your case is RETURNED to NYSOH to recalculate your eligibility for financial assistance based on a two-person household for an individual living in [REDACTED], [REDACTED], New York, with an expected household of \$47,999.00, and to notify you accordingly.

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

Effective Date of this Decision: July 31, 2017

How this Decision Affects Your Eligibility

Your eligibility to receive APTC should have ended effective March 1, 2017 because you did not provide documentation of your household's income.

Your case is being sent back to NYSOH to recalculate your eligibility for financial assistance based on a two-person household for an individual living in [REDACTED], [REDACTED], New York, with an expected household of \$47,999.00. NYSOH will notify you once this has been done.

Any changes in APTC will be made effective the first day of the month following the date of the eligibility determination notice.

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

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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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

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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.

Your case is RETURNED to NYSOH to recalculate your eligibility for financial assistance based on a two-person household for an individual living in [REDACTED], New York, with an expected household of \$47,999.00, and to notify you accordingly.

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

Your eligibility to receive APTC should have ended effective March 1, 2017 because you did not provide documentation of your household's income.

Your case is being sent back to NYSOH to recalculate your eligibility for financial assistance based on a two-person household for an individual living in [REDACTED], New York, with an expected household of \$47,999.00. NYSOH will notify you once this has been done.

Any changes in APTC will be made effective the first day of the month following the date of the eligibility determination notice.

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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