



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

Notice of Decision

Decision Date: July 14, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017420

[REDACTED]

Dear [REDACTED]

On July 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 22, 2017 and March 2, 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, your spouse and your two adult children's eligibility for advance payments of the premium tax credit (APTC) ended effective March 1, 2017?

Did NYSOH properly determine that application of your, your spouse's and your two adult children's APTC was effective no earlier than April 1, 2017?

Procedural History

On November 18, 2016, NYSOH issued an eligibility determination notice, based on your November 17, 2016 updated application, stating in part that you, your spouse, and two adult children were conditionally eligible to receive up to \$848.00 in APTC and conditionally eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan (QHP), effective January 1, 2017. The notice directed you to provide documentation confirming your income before February 15, 2017.

Also on November 18, 2016, NYSOH issued a plan enrollment notice confirming in part your selection of a silver-level QHP for your family members with a monthly premium of \$389.54 after your monthly APTC of \$848.00 was applied as of January 1, 2017.

On February 3, 2017, you submitted your 2015 income tax return; which was subsequently validated by NYSOH on March 2, 2017 (see Documents [REDACTED] and [REDACTED]).

On January 24, 2017, NYSOH issued an eligibility determination notice, based on a system update, stating that you, your spouse, and two adult children were conditionally eligible to receive up to \$848.00 in APTC and conditionally eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan (QHP), effective January 1, 2017. The notice directed you to provide documentation confirming your income before February 15, 2017.

On February 22, 2017, NYSOH issued an eligibility determination notice stating that, effective April 1, 2017, you, your spouse, and two adult children were newly eligible to purchase a QHP at full cost. The notice stated that you, your spouse, and two adult children 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.

On February 23, 2017, NYSOH issued a plan enrollment notice confirming in part, your, your spouse's and your two adult children's selection of silver-level QHP; however, at the increased monthly premium amount of \$1,237.54, effective January 1, 2017.

On March 2, 2017, NYSOH issued an eligibility determination notice, based on your March 1, 2017 updated application, stating that you, your spouse, and two adult children were eligible to share in up to \$848.00 in APTC and to receive cost-sharing reductions if you enrolled in a silver level QHP, for a limited time, effective April 1, 2017. The notice directed you to provide documentation confirming your income before May 30, 2017.

Also on March 2, 2017, NYSOH issued a plan enrollment notice confirming in part your, your spouse and your two adult children's selection of a silver-level QHP with a monthly premium of \$389.54 after your monthly APTC of \$848.00 was applied as of April 1, 2017.

On March 4, 2017, NYSOH issued an eligibility determination notice, based on your March 3, 2017 updated application, stating that you, your spouse and two adult children were eligible to share in up to \$848.00 in APTC and cost-sharing reductions if you enrolled in a silver level QHP, effective April 1, 2017.

Also on March 4, 2017, NYSOH issued a plan enrollment notice confirming in part, your, your spouse's and your two adult children's selection of a silver-level QHP with a monthly premium of \$389.54 after your monthly APTC of \$848.00 was applied as of April 1, 2017.

On March 28, 2017, you spoke to NYSOH's Account Review Unit and appealed that determination insofar as your, your spouse's and your two adult children's APTC was terminated for the month of March 2017.

On July 10, 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) On November 18, 2016, you, your spouse, and two adult children were found conditionally eligible for APTC effective January 1, 2017.
- 2) You testified that you received the November 18, 2016 notice requesting proof of income be submitted, but there were no changes in your income from the year before and you had nothing new to give NYSOH, so initially you did not submit any proof of income. You further testified that you received the January 24, 2017 notice requesting that proof of income be submitted.
- 3) You testified that on January 24, 2017, you called NYSOH and were advised by the representative that you needed to submit proof of income and that everything was fine with your account.
- 4) You testified that, since you provided your proof of income before the due date of February 15, 2017 listed on both notices, you believe that you, your spouse and two adult children should not have lost APTC for the month of March 2017.
- 5) On February 3, 2017, you submitted your 2015 income tax return; which was subsequently validated by NYSOH on March 2, 2017 (see Documents [REDACTED] and [REDACTED]).
- 6) Your NYSOH account indicates that, on February 21, 2017, your application was systematically updated and you, your spouse and two adult children were found no longer eligible for APTC as of April 1, 2017.
- 7) You testified that you are seeking to have your, your spouse and two adult children's APTC reinstated for the month of March 2017.

- 8) You testified that APTC was not applied to your account in March 2017 and you owe your health plan \$848.00. Because you have not paid your insurance premium in full, your family's policy is pending cancellation.
- 9) Your NYSOH account indicates that, on March 1, 2017, you renewed your application for financial assistance, and you, your spouse and two adult children were found conditionally eligible for APTC as of April 1, 2017. Upon validating your proof of income on March 2, 2017, you, your spouse and your two adult children were found fully eligible for APTC as of April 1, 2017.

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 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

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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)).

Timely Notice of Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 FR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for the NYSOH to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

NYSOH must provide applicants notice of their eligibility determination within 45 days from the date of the completed application (42 CFR § 435.912).

Legal Analysis

The first issue under review is whether NYSOH properly determined that eligibility for APTC for you, your spouse and your two adult children 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.

In the eligibility determination notice issued on November 18, 2016, you were advised that your family's eligibility for APTC was only conditional, and that you needed to confirm your household's income before February 15, 2017.

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You testified that you received the notice requesting that proof of income be submitted. Therefore, 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 account.

However, you further testified that, since you provided your proof of income before the due date of February 15, 2017 listed on the notices, you believe your family should not have lost APTC for the month of March 2017.

The credible evidence of the record shows that you provided your proof of income on February 3, 2017, which was subsequently validated by NYSOH on March 2, 2017. Therefore, NYSOH's timeliness in determining eligibility of you, your spouse and two adult children must be analyzed.

NYSOH must determine individual or family's eligibility within 45 days from the date of the completed application. An application is considered complete on the date NYSOH validates that the household's proof of income. You submitted your documentation to NYSOH February 3, 2017 and that documentation was validated 27 days later on March 2, 2017, which is within 45 days of February 3, 2017. Therefore, your application was complete as of March 2, 2017 and the May 4, 2017 eligibility determination was timely issued.

As such, on February 21, 2017, when NYSOH redetermined you, your spouse and two adult children's eligibility, it was based on the information then available because NYSOH remained unable to verify your attestation of income. This resulted in you, your spouse and two adult children being determined eligible for a QHP at full cost, effective April 1, 2017, as stated in the February 22, 2017 eligibility determination notice. This meant your family was no longer eligible for APTC as of that date.

However, any changes in APTC are to be made effective as of the first day of the month following the date of the eligibility determination notice. Accordingly, you, your spouse's, and your two adult children's eligibility for APTC should have ended as of March 1, 2017, the month following the issuance of the February 22, 2017 eligibility determination notice.

Therefore, the February 22, 2017 eligibility determination notice is MODIFIED to state that you, your spouse and your two adult children were not eligible to receive APTC as of March 1, 2017, because NYSOH did not timely receive the income documentation needed to verify the income listed in your application.

The second issue under review is whether NYSOH properly determine that eligibility for APTC, was next effective no earlier than April 1, 2017.

The record shows that, on March 1, 2017, you updated the information in your NYSOH account. On March 4, 2017, NYSOH issued an eligibility determination notice stating that you, your spouse and two adult children were eligible to share in up to \$848.00 in APTC and to receive cost-sharing reductions, effective April 1, 2017.

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

Since you updated your application on March 1, 2017, any changes in APTC should have been made effective as of April 1, 2017.

Therefore, NYSOH's March 4, 2017 eligibility determination notice is correct and is AFFIRMED.

Lastly, at the end of a tax year, individuals who elect to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income they reported to NYSOH and their actual gross income for that year, which may also result in a tax credit or reduction in tax liability if the full amount of APTC to which the individuals are entitled is not taken throughout the year. Conversely, if individuals received more APTC than their maximum entitlement, based on gross income, they might owe the excess as an additional income tax liability. Depending on your 2017 income as reported on your federal tax return, the amount of APTC to which your family was entitled can be reconciled at the time you file your 2017 federal tax return.

Decision

The February 22, 2017 eligibility determination notice is MODIFIED to state that, effective March 1, 2017, you, your spouse and two adult children were not eligible to receive APTC.

The March 4, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: July 14, 2017

How this Decision Affects Your Eligibility

You, your spouse and your two adult children were not eligible to receive APTC, effective March 1, 2017.

This decision does not change the eligibility for you, your spouse and two adult children.

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).

NYSOH properly found that your, your spouse's and your two adult children's renewed eligibility for APTC was effective April 1, 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:
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

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- 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 eligibility determination notice is MODIFIED to state that, effective March 1, 2017, you, your spouse and two adult children were not eligible to receive APTC.

The March 4, 2017 eligibility determination notice is AFFIRMED.

You, your spouse and your two adult children were not eligible to receive APTC, effective March 1, 2017.

This decision does not change the eligibility for you, your spouse and two adult children.

NYSOH properly found that your, your spouse's and your two adult children's renewed eligibility for APTC was effective April 1, 2017.

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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