



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

Notice of Decision

Decision Date: August 31, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017556

[REDACTED]

Dear [REDACTED]

On August 14, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: August 31, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017556



Issue

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

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

Procedural History

On November 17, 2016, NY State of Health (NYSOH) received your application for financial assistance with your health insurance. That day, you also uploaded income documentation to your NYSOH account.

On November 18, 2016, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible to receive up to \$297.00 in advance payments of the premium tax credit (APTC) and conditionally eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective January 1, 2017. The notice further directed you to provide documentation confirming your income before February 15, 2017.

On November 18, 2016, NYSOH issued an enrollment notice confirming your enrollment in a Silver level qualified health plan with a premium responsibility of \$149.10 per month after the application of your APTC, effective January 1, 2017.

On December 6, 2016, NYSOH issued a notice stating the documentation it reviewed does not confirm the information in your application. The notice requested you provide proof of your income by February 15, 2017.

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On December 19, 2016, you uploaded additional income documentation to your NYSOH account.

On January 12, 2017, NYSOH issued a notice stating the documentation it reviewed does not confirm the information in your application. The notice requested you provide proof of your income by February 15, 2017.

On January 12, 2017, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible to receive up to \$309.00 in APTC and conditionally eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective February 1, 2017. The notice further directed you to provide documentation confirming your income before February 15, 2017.

On January 23, 2017, you uploaded additional income documentation to your account.

On January 31, 2017, NYSOH issued a notice stating the documentation it reviewed does not confirm the information in your application. The notice requested you provide proof of your income by February 15, 2017.

On February 21, 2017, NYSOH redetermined your eligibility for financial assistance.

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.

On February 22, 2017, NYSOH issued an enrollment notice confirming your enrollment in a Silver level qualified health plan with a premium responsibility of \$446.10 per month, effective January 1, 2017.

On March 31, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the month of January, February, and March, 2017.

Your hearing was scheduled for July 6, 2017, at 3:00 p.m. A Hearing Officer called you at 3:00 p.m. and started the hearing but the call was dropped, and was unable to contact you after four additional attempts. Your case was then rescheduled for a new date and time.

On August 14, 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 proceeding.

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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 conditional 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 were aware you had to provide income documentation, and you believe you provided sufficient information to satisfy NYSOH's request.
- 5) You testified you receive income from rental property as well as income from a company which pays you as a per diem employee.
- 6) Your November 11, 2016 application shows you attested to income from your employer and income from renting a town home.
- 7) You submitted income documentation to NYSOH on November 17, and December 19, 2016 in the form of paystubs.
- 8) You submitted income documentation to NYSOH on January 23, 2017, in the form of paystubs and a copy of your 2016 W-2.
- 9) You submitted income documentation on March 31, 2017 in the form of paystubs.
- 10) Your NYSOH account indicates your income documentation was determined to be invalid on December 5, 2016, January 11, 2017, and January 30, 2017.
- 11) 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.
- 12) You testified that you are seeking reinstatement of your APTC as of January 1, 2017.

- 13) You testified that your APTC was retroactively terminated back to January 1, 2017 and that your qualified health plan is now directing you to pay the full premium for coverage dating back to January 1, 2017.
- 14) You reside in Nassau County, NY.

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 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)).

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i)). If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f)).

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.

In the eligibility determination issued on November 18, 2016, 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 were aware of the need to provide acceptable income documentation, however you thought you had complied with the request fully.

Based on your November 11, 2016 application, you had attested to receiving income from your employer and income from renting a town home.

However, you only submitted documentation showing your income from your job. This documentation was provided to NYSOH on November 17, and December 19, 2016 in the form of paystubs. You also submitted income documentation to NYSOH on January 23, 2017, in the form of paystubs and a copy of your 2016 W-2. Each time you provided copies of your paystubs and your W-2 income, this

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documentation was considered not valid to confirm the information in your application.

Notices were issued to you on December 6, 2016, and January 12, and 31, 2017, stating the documentation NYSOH reviewed does not confirm the information in your application. The notices continued to request you provide proof of your income by February 15, 2017.

No further documentation was provided after your submission on January 23, 2017, before the February 15, 2017 deadline provided by NYSOH.

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.

Your eligibility for financial assistance was redetermined using data sources on February 21, 2017. Accordingly, your eligibility for APTC should have ended as of March 1, 2017, the month following the February 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 APTC was retroactively terminated back to January 1, 2017, and that your qualified health plan is now seeking that you pay the full premiums for coverage dating back to January 1, 2017. Any changes in APTC are to be made effective the date following the eligibility determination notice. Accordingly, your APTC should have only been effected for March, the month following the February 22, 2017 eligibility redetermination. NYSOH Appeals Unit does not have authority to hear issues involving qualified health plan 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.

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.

Your case is RETURNED to Plan Management in order to investigate whether or not your plan is incorrectly billing you for January and February 2017 when you should have been receiving APTC.

Effective Date of this Decision: August 31, 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.

Your case is being sent back so that Plan Management can investigate your claim that your qualified health plan retroactively terminated your APTC prior to March 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

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).

- 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.

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.

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

Your case is also being sent back so that Plan Management can investigate your claim that your qualified health plan retroactively terminated your 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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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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