



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

Notice of Decision

Decision Date: July 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017659

[REDACTED]

Dear [REDACTED],

On July 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 26, 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 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017659

[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 (APTC) ended, effective April 1, 2017?

Procedural History

On November 21, 2016, you updated your application for financial assistance and uploaded documentation to your NYSOH account.

On November 22, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$321.00 per month in APTC, and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan (QHP), effective January 1, 2017. This eligibility was for a limited time, and the notice further directed you to provide documentation confirming your income before February 19, 2017.

Also on November 22, 2016, NYSOH issued a notice confirming your enrollment in a QHP with APTC and cost-sharing reductions, effective January 1, 2017. Your monthly premium, after the application of APTC, was \$256.60.

On December 9, 2016, NYSOH issued a notice stating the documentation you submitted had been reviewed, but that it did not confirm the information in your application. The notice further directed you to submit income documentation by February 19, 2017.

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On December 12, 2016, you again uploaded documentation to your NYSOH account.

On December 30, 2016, NYSOH issued a notice stating that the documentation you submitted had been reviewed, but that it did not confirm the information in your application. The notice further directed you to submit income documentation by February 19, 2017.

On February 26, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a QHP 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 27, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a QHP with a monthly premium of \$577.60.

On March 15, 2017, you updated your NYSOH account.

On March 16, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$321.00 per month in APTC, and eligible for cost-sharing reductions, effective April 1, 2017.

Also on March 16, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in a QHP with APTC applied as of April 1, 2017. Your monthly premium, after the application of APTC, was \$256.60.

On April 3, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for a one-month period.

On July 18, 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) You testified that you updated your account with NYSOH in November 2016 on the phone, and that you uploaded income documentation that day.

- 2) You testified that the NYSOH representative you were speaking with told you that everything looked fine, and your application was complete.
- 3) You testified that you believe you received the December 9, 2016 notice from NYSOH stating that your documentation was insufficient, which caused you to call NYSOH.
- 4) You testified that the person you spoke with told you that, because you had not removed a staple, part of the information that NYSOH needed was not visible.
- 5) You testified that you removed the staple and again uploaded documentation. You testified that you were told by the NYSOH agent that you were all set, and everything looked fine.
- 6) Your NYSOH account reflects that, on November 21, 2016, you uploaded a copy of pages one and two of your unsigned 2015 IRS Form 1040, showing an adjusted gross income of \$6,617,00, as well as a copy of both pages of your IRS Schedule C (See Documents [REDACTED]).
- 7) Your NYSOH account further reflects that, on December 12, 2016, you again uploaded a copy of both pages of your signed 2015 IRS Form 1040, and a copy of the second page of your IRS Schedule C (See [REDACTED]).
- 8) Notes entered in your NYSOH account by a NYSOH representative on December 8, 2016 indicate that the documents you uploaded on November 21, 2016 were invalidated because the 2015 IRS Form 1040 was not signed or dated.
- 9) After you uploaded documentation again on December 12, 2016, a NYSOH representative entered a note on December 29, 2016 which stated, "Invalid proof of income. [REDACTED] submitted a 2015 1040 where a W-2 is blocking information that needs to be added into application. [REDACTED] is attesting to self employment. Requirement documentation is a signed 2015 1040."
- 10) The 2015 IRS Form 1040 submitted on November 21, 2016, and again on December 12, 2016, is partially obscured by a W-2. However, the adjusted gross income figure on line 37 is clearly visible.
- 11) You testified that you were not aware that NYSOH sent out a second notice stating that your documents were invalid, and that you thought,

after the second phone call you had with NYSOH, that everything was all set with your tax credit.

- 12) You testified that you received a premium bill at some point that seemed much larger than usual, and you did not understand why, as you always pay two months in advance.
- 13) You testified that you contacted your QHP, and were advised to call NYSOH. You testified that you called NYSOH and were told that your tax credit was removed because there had been a problem with the documentation you provided.
- 14) You testified that you reapplied and your tax credit was reinstated, but there was a gap for one month. You testified that you paid the full premium for that month, and you believe it was the month of April 2017.
- 15) You testified that you do not recall being asked for any income documentation when you updated your application again in March 2017, and the March 16, 2017 eligibility determination does not indicate a requirement for documentation to be submitted.
- 16) Your November 21, 2016 and March 15, 2017 applications both listed an expected annual income of \$24,500.00, and you testified that this amount is correct. You testified that your income was lower in 2015 because of expenses.
- 17) You testified that you are seeking reinstatement of your APTC for the month in which you were required to pay your full QHP premium.

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)).

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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)).

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 22, 2016, you were advised that your eligibility for APTC was for a limited time only, and that you needed to confirm your household's income before February 19, 2017.

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You testified that you uploaded income documentation to your account on the day that you applied, and the record confirms this. You testified that you then received a notice stating that the documentation was not sufficient, so you called NYSOH and were told that there was a problem with viewing part of a document because a staple had not been removed. You testified that you resubmitted the documentation, and the record confirms that income documentation was again uploaded on December 12, 2016.

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.

If NYSOH had remained unable to verify your income, then your eligibility for APTC should have ended as of March 1, 2017, as this was the month following the February 26, 2017 eligibility determination, which found you eligible for a full cost QHP due to a failure to submit income documentation.

However, NYSOH's reason for invalidating the income documentation you submitted on December 12, 2016 was improper, as your W-2 was not blocking the relevant information from your 2015 IRS Form 1040. Since the adjusted gross income on line 37 was visible, NYSOH had the necessary information for determining your income for the purposes of financial assistance through NYSOH.

Moreover, you listed an income of \$24,500.00 in your November 21, 2016 application, and listed this income amount again when you reapplied for financial assistance on March 15, 2017. You testified at the hearing that this amount is correct, and that your income in 2015 was lower because of expenses.

Since NYSOH accepted this income attestation without requesting documentation when you reapplied in March 2017, there is no reason apparent in the record for why NYSOH did not accept this exact same attestation when you first made it in November 2016.

Accordingly, your eligibility for APTC should not have ended, as NYSOH's reasons for invalidating your documentation were incorrect, and as no income documentation was requested from you when you reapplied in March 2017 and attested to the exact same income information.

For this reason, the February 26, 2017 eligibility determination notice is **RESCINDED**.

Your case is RETURNED to NYSOH to determine which month your APTC was not applied to your QHP premium, and to reinstate your APTC for that month so that there is no gap in your receipt of APTC in 2017.

Decision

The February 26, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to determine which month your APTC was not applied to your QHP premium, and to reinstate your APTC for that month, such that there is no gap in your receipt of APTC in 2017.

Effective Date of this Decision: July 28, 2017

How this Decision Affects Your Eligibility

NYSOH incorrectly terminated your APTC eligibility in its February 26, 2017 eligibility determination notice.

Your case is being sent back to NYSOH to determine which month your APTC was not applied to your monthly premium, and to reinstate your APTC for that month, so that there is no gap in the application of your APTC to your 2017 monthly QHP premiums.

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 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).

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 February 26, 2017 eligibility determination notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to determine which month your APTC was not applied to your QHP premium, and to reinstate your APTC for that month, such that there is no gap in your receipt of APTC in 2017.

NYSOH incorrectly terminated your APTC eligibility in its February 26, 2017 eligibility determination notice.

Your case is being sent back to NYSOH to determine which month your APTC was not applied to your monthly premium, and to reinstate your APTC for that month, so that there is no gap in your receipt of APTC in 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 bɛtumi ama wo obi a okyerɛ 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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