



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: AP000000018059

[REDACTED]

Dear [REDACTED],

On July 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 4, 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).

This page intentionally left blank.

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

Decision

Decision Date: August 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018059

[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 you and your spouse's eligibility for advance payments of the premium tax credit (APTC) ended effective May 1, 2017?

Procedural History

On December 29, 2016, you and your spouse submitted an application for insurance, along with a letter from your employer dated September 22, 2016. The letter was invalidated by NYSOH as out of date on February 1, 2017 (see Document [REDACTED]).

On December 30, 2016, NYSOH issued an eligibility determination notice, based on your December 29, 2016 updated application, stating in part that you and your spouse were eligible to share in up to \$620.00 in APTC and to receive cost-sharing reductions if you enrolled in a silver level qualified health plan (QHP) for a limited time, effective February 1, 2017. The notice directed you to provide documentation confirming your household income before March 29, 2017.

Also on December 30, 2016, NYSOH issued a plan enrollment notice confirming in part your selection of a silver level QHP for you and your spouse with a monthly premium of \$346.89 after your monthly APTC of \$620.00 was applied as of February 1, 2017.

On February 2, 2017, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your and your spouse's application. The notice directed you to provide additional documentation confirming your household income before March 29, 2017.

On April 4, 2017, NYSOH issued an eligibility determination notice stating that, effective May 1, 2017, you and your spouse were newly eligible to purchase a QHP at full cost. The notice stated that you and your spouse 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 and your spouse's application.

Also on April 4, 2017, NYSOH issued a plan enrollment notice confirming in part, your and your spouse's selection of silver level QHP; however, at the increased (full cost) monthly premium amount of \$966.89, effective February 1, 2017.

On April 17, 2017, you spoke to NYSOH's Account Review Unit and appealed that determination insofar as your and your spouse's APTC was terminated for the month of May 2017.

On June 29, 2017, NYSOH issued an eligibility determination notice, based on your June 28, 2017 updated application, stating that your spouse was eligible to enroll in the Essential Plan for a limited time with no monthly premium, effective July 1, 2017. The notice directed you to provide documentation confirming your income before July 13, 2017 and confirming your spouse's income before September 26, 2017.

Also on June 29, 2017, NYSOH issued a notice, based on your June 28, 2017 updated application, that the income information in your and your spouse's application did not match what NYSOH received from federal and state data sources. The notice directed you to provide documentation confirming your income before July 13, 2017 and confirming your spouse's income before September 26, 2017.

Also on June 29, 2017, NYSOH issued a disenrollment notice stating that your and your spouse's coverage with your silver level QHP would end on July 31, 2017, because you and your spouse were no longer eligible for a QHP.

On July 11, 2017, you submitted a letter from your employer, dated July 1, 2017, and your and your spouse's 2016 Income Tax Return; which were validated by NYSOH on July 12, 2017 (see Documents [REDACTED]).

On July 12, 2017, NYSOH issued a plan enrollment notice confirming your spouse's selection of an Essential Plan as of July 11, 2017, with an effective date of August 1, 2017.

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).

On July 13, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective June 1, 2017.

On July 14, 2017, NYSOH issued a plan enrollment notice confirming your selection of a Medicaid Managed Care plan as of July 13, 2017, with an effective date of August 1, 2017.

On July 31, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open to August 14, 2017 for you to submit health plan premium billing statements and proof of payment.

On August 4, 2017, you submitted three health plan billing statements dated April 7, 2017, May 9, 2017 and June 7, 2017 along with a copy of a cancelled check dated May 26, 2017. These documents were made part of the record as [REDACTED]. As of August 14, 2017, no further documentation was received and the record closed that day.

Findings of Fact

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

- 1) On December 29, 2016, you and your spouse submitted an application for insurance and were found conditionally eligible for APTC effective February 1, 2017. That same day, your spouse submitted a letter from your employer dated September 22, 2016; which was subsequently invalidated by NYSOH as out of date on February 1, 2017 (see Document [REDACTED]).
- 2) You testified that your spouse received NYSOH's December 30, 2016 notice requesting that proof of income be submitted, but did not understand what information was needed.
- 3) Your NYSOH account indicates that, on April 3, 2017, your application was systematically run and you and your spouse were found no longer eligible for APTC as of May 1, 2017.
- 4) You testified that your spouse called NYSOH and was advised by the representative that she was missing information [proof of income] and that it was too late to send it in.
- 5) You testified that since you did not provide your proof of income before the due date of March 29, 2017 you lost your financial assistance from NYSOH. This was because your spouse did the paperwork and does not speak English very well.

- 6) On July 11, 2017, you submitted a letter from your employer, dated July 1, 2017, and your and your spouse's 2016 Income Tax Return; which were validated by NYSOH on July 12, 2017 (see Documents [REDACTED]).
- 7) You testified that you are seeking to have your and your spouse's APTC reinstated for the months of April 2017 and May 2017. You are satisfied with your and your spouse's current health coverage.
- 8) On August 4, 2017, you submitted billing statements that show you and your spouse were charged your full premium for the months of May 2017, June 2017 and July 2017 (see [REDACTED]).
- 9) You testified that you are receiving different insurance now and that you only had to pay the full premium for two months.

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 [REDACTED]).

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)).

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 application (42 CFR § 435.912).

End of Tax Year Reconciliation

At the end of a tax year, a person who elects 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 the person reported to NYSOH and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your and your spouse's eligibility for APTC ended effective May 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 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 December 30, 2016, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income before March 29, 2017.

You testified that you received the notice requesting that proof of income be submitted, but that your spouse who does not speak English very well oversaw the paperwork and did not understand what was needed. Although documentation was submitted, it was invalidated by NYSOH and another notice was issued requesting additional proof of income.

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.

Since there was no timely submission of income documentation by March 29, 2017, on April 3, 2017, NYSOH redetermined your and your spouse's eligibility based on the information available from federal and state data sources. On April 4, 2017, issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a QHP at full cost, effective May 1, 2017

Any changes in APTC are to be made effective the first day of the month following the eligibility determination notice. Accordingly, your and your spouse's eligibility for APTC should have ended as of May 1, 2017, the month following the issuance of the April 4, 2017 eligibility determination notice.

Because NYSOH did not timely receive the income documentation needed to verify the income listed in your and your spouse's application, the April 4, 2017 eligibility determination notice that stated you and your spouse were newly eligible to purchase a QHP at full cost and not eligible to receive APTC, as of May 1, 2017, is correct and must be **AFFIRMED**.

The credible evidence of the record shows that you provided sufficient proof of income for the first time on July 11, 2017, which was subsequently validated by NYSOH on July 12, 2017.

NYSOH must determine an applicant's eligibility within 45 days from the date of the completed application. An application is considered complete on the date NYSOH validates that individual's proof of income. Since, you submitted your documentation to NYSOH July 11, 2017 and that documentation was validated on July 12, 2017, your application was not considered complete until July 12, 2017, and the eligibility determination made that date was timely.

Lastly, at the end of a tax year, a person who elects 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 the person 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 a person is entitled is not taken throughout the year. Conversely, if a person received more APTC than their maximum entitlement, based on gross income, they might owe the excess as an additional income tax liability. The amount of APTC to which you and your spouse were entitled can be reconciled at the time you file your 2017 federal tax return.

Decision

The April 4, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: August 22, 2017

How this Decision Affects Your Eligibility

You and your spouse were no longer eligible to receive APTC, effective May 1, 2017, because you did not provide documentation of your household's income to NYSOH in a timely manner.

This decision does not change your and your spouse's current eligibilities or enrollments.

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

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).

Summary

The April 4, 2017 eligibility determination notice is AFFIRMED.

You and your spouse were no longer eligible to receive APTC, effective May 1, 2017, because you did not provide documentation of your household's income to NYSOH in a timely manner.

This decision does not change your and your spouse's current eligibilities or enrollments.

The amount of APTC to which you and your spouse were entitled in 2017 can be reconciled at the time you file your 2017 federal tax return.

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، يرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

বাংলা (Bengali)

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).

0000 00 0000000000000000 0000 000 000000 000000 000 0000000000 0000000000 00 000000,
00000000 0000 1-855-355-5777 00000000 00 000000 000000 00 00000000 0000 000000000000 000000
00000000 000000 00000000 000000 000000

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. y&b&tumi 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.

שׂוֹדֵשׁ (Yiddish)

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).

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.

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).