



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

Notice of Decision

Decision Date: September 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018082

[REDACTED]

Dear [REDACTED],

On August 9, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 21, 2017 eligibility determination and enrollment confirmation notices and the March 29, 2017 disenrollment 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 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.

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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 eligibility for advance payments of the premium tax credit ended effective March 31, 2017?

Did NYSOH properly determine that your enrollment in your qualified health plan ended no earlier than April 30, 2017?

Procedural History

On November 29, 2016, NYSOH issued a notice of eligibility determination stating you were eligible to receive advance payments of the premium tax credit (APTC), for a limited time, effective January 1, 2017. The notice directed you to provide documentation confirming your household income before February 26, 2017 or you might lose your insurance or receive less help paying for your coverage.

On December 13, 2016, NYSOH issued a notice confirming your enrollment in a qualified health plan with APTC, effective January 1, 2017.

On March 4, 2017, NYSOH systematically redetermined your eligibility.

On March 5, 2017, NYSOH issued an eligibility determination notice stating you were eligible to receive up to \$255.00 in APTC, effective April 1, 2017. The notice

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directed you to provide proof of your income by March 13, 2017 or you might lose your insurance or receive less help paying for your coverage.

Also on March 5, 2017, NYSOH issued an enrollment notice confirming you were enrolled in a qualified health plan with \$255.00 in APTC applied to the monthly premium beginning April 1, 2017.

On March 21, 2017, NYSOH issued an eligibility determination notice, based on the March 20, 2017 systematic eligibility redetermination, stating you were eligible to purchase a qualified health plan at full cost, effective May 1, 2017. The notice stated you did not qualify for financial assistance, because you failed to submit proof of your household income within the required time frame.

Also on March 21, 2017, NYSOH issued an enrollment notice confirming your enrollment in a full cost qualified health plan.

On March 29, 2017, NYSOH issued an eligibility determination notice stating you were no longer eligible to enroll in health coverage through NYSOH, effective May 2, 2017, because you no longer wanted to receive coverage.

Also on March 29, 2017, NYSOH issued a disenrollment notice stating your coverage through your qualified health plan would end on April 30, 2017, because you were no longer eligible to enroll in the plan.

On April 17, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the month of April 2017.

Findings of Fact

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

- 1) Your NYSOH account confirms that you receive all your notices from NYSOH by electronic mail.
- 2) You testified that you used to get your notices from NYSOH by regular mail and you are not sure when your communication preference was changed.
- 3) You testified that you do not know if you ever receive an email alert from NYSOH.
- 4) You testified that you do not recall reading a notice indicating you had to provide proof of your income by February 26, 2017, but that you were aware you "had until February 2017" to submit proof of your

income, because a NYSOH representative had advised you over the phone.

- 5) According to your account, NYSOH did not receive any documentation of income by February 26, 2017.
- 6) According to your account, on March 4, 2017, your eligibility was systematically redetermined. You were determined conditionally eligible for a reduced amount of APTC, to be applied April 1, 2017. Your deadline to submit proof of your income was extended to March 13, 2017.
- 7) You testified you are not sure if you ever received any email alert regarding the March 5, 2017 eligibility determination notice.
- 8) According to your account, NYSOH has never received any documentation of your household income.
- 9) You testified that you were waiting to finish your 2016 tax return to submit proof of your income, but that you began having issues with your health plan so you decided you were going to end your coverage. You testified that because you had already decided to end your coverage you believed it was pointless to submit proof of your income at that point.
- 10) According to your account, NYSOH systematically redetermined your eligibility for financial assistance on March 20, 2017 and determined you were no longer eligible for financial assistance, because you failed to submit documentation of your household income by the deadline.
- 11) The March 21, 2017 enrollment notice confirmed you were enrolled in a full cost qualified health plan.
- 12) You testified, and your account confirms, you contacted NYSOH on March 28, 2017 to request to end your qualified health plan coverage. You testified you were told your coverage would end on March 31, 2017.
- 13) According to your account, your coverage through your qualified health plan ended on April 30, 2017.
- 14) You testified you first learned your APTC had been revoked when you received a bill from your health plan for the full amount of the premium for April 2017.

- 15) You testified that you have not paid the invoice for April, but the plan is billing you for it.
- 16) You testified you are seeking reinstatement of your APTC for the month of April 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 individual's 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 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 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 it must implement any decreases in eligibility to receive APTC effective as of the

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first day of the month following the date of the notice if the change occurs on or before the 15th of the month; otherwise, the change becomes effective the first day of the second following month (45 CFR § 155.310(f), 45 CFR § 155.330(f)(1)(i) and (f)(3)). Increases become effective the first day of the following month, regardless of when during the month the change occurs (*id.*).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual when a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

Termination of a Qualified Health Plan

NYSOH must permit an enrollee to terminate his or her coverage with a qualified health plan coverage, with appropriate notice to the NYSOH or qualified health plan (45 CFR § 155.430(b)(1)(i)).

For enrollee-initiated terminations, the last day of coverage is either:

- 1) The termination date specified by the enrollee, if the enrollee provides reasonable notice (at least 14 days before the requested termination date);
- 2) Fourteen days after the enrollee requests the termination, if they do not provide reasonable notice; or
- 3) On a date on or after the date the enrollee requests the termination, if the enrollee's qualified health plan issuer and the enrollee agree to such a date

(45 CFR § 155.430(d)(2)(i)-(iii)).

NYSOH must permit an enrollee to retroactively terminate or cancel their enrollment in a qualified health plan if:

- 1) The enrollee demonstrates that they attempted to terminate their coverage and experienced a technical error that did not allow the coverage to be terminated, and requests retroactive termination within 60 days after they discovered the technical error.
- 2) The enrollment in the qualified health plan was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer,

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employee, or agent of NYSOH or HHS, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities. Such enrollee must request cancellation within 60 days of discovering the unintentional, inadvertent, or erroneous enrollment.

- 3) The enrollee was enrolled in a qualified health plan without their knowledge or consent by any third party, including third parties who have no connection with the Exchange, and requests cancellation within 60 days of discovering of the enrollment.

(45 CFR § 155.430(b)(2)(iv)(A-C)).

NYSOH permits a qualified health plan to terminate an individual's coverage if (1) the enrollee is no longer eligible for coverage or (2) non-payment of the premiums by the enrollee (45 CFR § 155.430(b)(2)(i)-(ii)).

Legal Analysis

The issue under review is whether your eligibility for APTC ended effective March 31, 2017.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her 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 November 29, 2016, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income before February 26, 2017. Additionally, NYSOH systematically redetermined your eligibility on March 4, 2017 and extended your deadline to submit proof of your income to March 13, 2017. This was confirmed in the March 5, 2017 eligibility determination notice.

The record reflects that NYSOH never received any income documentation.

You testified, and your account confirms, that you elected to receive alerts regarding notices from NYSOH electronically. Although you testified that you do not remember whether you received any email alerts regarding the November 29, 2016 or the March 5, 2017 eligibility determination notices, both of which directed you to submit proof of your household's income by specified deadlines, your testimony is insufficient to establish that email alerts were not sent.

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Furthermore, you testified that you were aware you “had until February 2017” to submit proof of your income, because a NYSOH had advised you over the phone. Accordingly, the totality of the evidence establishes that NYSOH provided you with adequate notice that you needed to submit documentation of your income to confirm your eligibility to continue receiving APTC.

At the hearing, you conceded that you never submitted any income documentation to NYSOH, despite knowing that such documentation had been requested. You testified that you were waiting to finish your 2016 tax return to submit proof of your income, but that you began having issues with your health plan, so you decided you were going to end your coverage. You testified that, because you had already decided to end your coverage, you believed it was pointless to submit proof of your income at that point.

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. Since you failed to submit sufficient documentation to verify the income information attested to in your application, despite receiving adequate notice that NYSOH required that documentation to confirm your eligibility, NYSOH properly determined you were no longer eligible to receive APTC.

Pursuant to the regulations, any decreases in APTC are to be made effective the first day of the month following the eligibility redetermination notice only if the change in eligibility occurs on or before the 15th of the month. Otherwise, the decrease occurs the first of the second following month. Therefore, the end of your eligibility to receive APTC should have been effective May 1, 2017.

The second issue under review is whether NYSOH properly determined your enrollment in your qualified health plan ended no earlier than April 30, 2017.

You were enrolled in a qualified health plan, effective January 1, 2017. You testified, and your account confirms, you contacted NYSOH on March 28, 2017 to request that your coverage end. Your coverage was terminated, effective April 30, 2017.

You testified that you are seeking retroactive disenrollment from your qualified health plan effective March 31, 2017.

NYSOH must permit an enrollee to be retroactively disenroll from their qualified health plan if the enrollee demonstrates that there was a technical error that should have allowed them to terminate coverage earlier, or if their enrollment in the plan was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or

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conducting enrollment activities, or the enrollee was enrolled into a qualified health plan without their knowledge or consent by a third party.

There is no indication in the record that your enrollment in a qualified health plan, as confirmed in the December 13, 2016 enrollment notice, was unintentional, inadvertent, or erroneous, nor was your enrollment in a qualified health plan the result of the error or misconduct of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities. Furthermore, there is no indication that your enrollment in a qualified health plan was without your knowledge or consent.

Therefore, there is no basis to find that NYSOH must permit you to retroactively terminate or cancel your enrollment in a qualified health plan.

The record reflects that on March 28, 2017 you contacted NYSOH and requested that you be disenrolled from your qualified health plan.

Enrollees must be allowed to terminate their coverage with a qualified health plan at the date they specify if they provide reasonable notice to NYSOH or to their health plan. Reasonable notice is defined as at least 14 days prior to the requested termination date.

NYSOH terminated your insurance coverage with your qualified health plan effective April 30, 2017, which is the last day of the month following your request.

Since you do not qualify to be retroactively disenrolled from your coverage and you did not provide reasonable notice to NYSOH for a March 31, 2017 coverage end date, NYSOH properly determined that your disenrollment in your qualified health plan was effective April 30, 2017.

Therefore, the March 29, 2017, disenrollment notice is AFFIRMED.

Decision

The March 21, 2017 eligibility determination and March 29, 2017 disenrollment notices are AFFIRMED.

Effective Date of this Decision: September 18, 2017

How this Decision Affects Your Eligibility

You should have received APTC for April 2017; however, your coverage was properly continued until April 30, 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).

Your case will be returned to NYSOH to ensure that you receive APTC for April 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):

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777

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- By mail at:
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The March 21, 2017 eligibility determination and March 29, 2017 disenrollment notices are AFFIRMED.

You should have received APTC for April 2017; however, your coverage was properly continued until April 30, 2017.
Your case will be returned to NYSOH to ensure that you receive APTC for April 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 मददत चाहन्छिन् भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोलने 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 srɛ wo, frɛ 1-855-355-5777. yɛ&ɛtumi ama wo obi a ɔkyerɛ 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.