



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: AP000000018165

[REDACTED]

Dear [REDACTED],

On July 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health’s February 28, 2017, eligibility determination notice and the March 7, 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 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 properly determine you and your wife were newly eligible to purchase a qualified health plan at full cost, effective March 1, 2017?

Did NY State of Health properly determine that the application of advance payments of the premium tax credit were effective no earlier than April 1, 2017?

Procedural History

On December 12, 2016, NY State of Health (NYSOH) received your and your wife's application for financial assistance with your health insurance.

On December 13, 2016, NYSOH issued an eligibility determination notice based on your last application stating you and your spouse were eligible for advance payments of the premium tax credit up to \$473.00 per month, effective January 1, 2017. The income listed in the application was \$58,000.00.

On December 14, 2016, NYSOH issued a letter confirming your and your wife's enrollment in a qualified health plan with a monthly premium responsibility of \$842.72 per month after your APTC of \$473.00 was applied.

On February 27, 2017, NYSOH received your and your wife's updated application.

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On February 28, 2017, NYSOH issued a notice of eligibility redetermination stating that you and your wife were newly eligible to purchase a qualified health plan at full cost. This eligibility was effective April 1, 2017. The income listed in the application was \$67,000.00.

On February 28, 2017, NYSOH issued a letter confirming your and your wife's enrollment in a qualified health plan with a monthly premium responsibility of \$1,315.72 per month.

On March 6, 2017, NYSOH received your and your wife's updated application.

On March 7, 2017, NYSOH issued an eligibility determination notice stating you and your wife were eligible for advance payments of the premium tax credit up to \$433.00 per month, effective April 1, 2017. The income amount listed in the application was \$63,000.00.

On March 7, 2017, NYSOH issued a letter confirming your and your wife's enrollment in a qualified health plan with a monthly premium responsibility of \$882.72, after your APTC of \$433.00 was applied.

On April 19, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination and enrollment confirmation notices insofar as they began your financial assistance eligibility on April 1, 2017, and not March 1, 2017.

On July 27, 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 submitted an application for financial assistance with your health insurance on December 12, 2016.
- 2) You testified you submitted an updated application on February 27, 2017 online.
- 3) In the application submitted on February 27, 2017, you attested to an expected annual household income for 2017 of \$67,000.00. You testified you made an error in estimating your expected household income in this application.

- 4) You testified you reside in a two-person household, and will file your 2017 taxes as married filing jointly.
- 5) You testified, and the record reflects, that you updated your application on March 6, 2017, and changed your annual expected household income for 2017 to \$63,000.00.
- 6) The record supports you and your wife were found eligible to receive advance payments of the premium tax credit up to \$433.00 per month, effective April 1, 2017.
- 7) You testified that you need your eligibility for financial assistance to begin on March 1, 2017 because you had a higher premium responsibility due for that month.
- 8) You reside in [REDACTED], NY.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) 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 QHP, 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)).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2017 is set by federal law at 2.04% to 9.69% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc.2016-24).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2016 FPL, which is \$16,020.00 for a two-person household (81 Federal Register 4036).

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of APTC for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The first issue whether NYSOH properly determined you and your wife were newly eligible to purchase a qualified health plan at full cost, effective March 1, 2017.

On December 12, 2016, you and your wife were found eligible for advance payments of the premium tax credit (APTC) up to \$473.00 per month and enrolled in a qualified health plan with a monthly premium responsibility of \$842.72 per month after your APTC of \$473.00 was applied.

You then updated your application online on February 27, 2017, and changed your annual household income for 2017 from \$58,000.00 to \$67,000.00. The eligibility determination relied upon that information.

You are in a two-person household. You expect to file your 2017 income taxes as married filing jointly and will claim no dependents on that tax return.

An annual income of \$67,000.00 is 418.22% of the 2016 Federal Poverty Level (FPL) for a two-person household.

APTC are generally available to a person who is eligible to enroll in a qualified health plan and expects to have a household income between 138% and 400% of the applicable FPL. At 418.22% of the FPL you and your wife were no longer eligible for APTC.

You testified you made an error in estimating your expected household income in this application. However, the application was attested to and submitted by you, and was not the result of error on the part of NYSOH employee, or its instrumentalities.

Therefore, NYSOH's February 28, 2017, notice of eligibility redetermination stating that you and your wife were newly eligible to purchase a qualified health plan at full cost, was correct.

When a redetermination of APTC is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination of APTC effective on the first day of the month following the date NYSOH is notified of the change. Since the February 28, 2017 redetermination notice stated the change was effective April 1, 2017 it is MODIFIED to reflect you and your spouse were eligible to purchase a qualified health plan at full cost effective March 1, 2017.

The second issue is whether NYSOH properly determined that the application of advance payments of the premium tax credit for you and your wife were effective no earlier than April 1, 2017.

On March 6, 2017, you updated the information in your NYSOH account. On March 7, 2017, NYSOH issued an eligibility redetermination notice based on your application that you and your wife were eligible to receive APTC up to \$433.00 per month and that APTC would be applied to your monthly premium effective April 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).

When a redetermination of APTC is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination of APTC effective on the first day of the month following the date NYSOH is notified of the change. Since the March 7, 2017 redetermination notice made the change in your APTC amount effective April 1, 2017 it was correct.

Therefore, NYSOH's March 7, 2017, eligibility determination notice and enrollment confirmation notice are AFFIRMED because it properly began your and your wife's APTC of \$433.00 per month effective April 1, 2017.

Decision

The February 28, 2017, redetermination notice is MODIFIED to reflect you and your spouse were eligible to purchase a qualified health plan at full cost effective March 1, 2017.

The March 7, 2017, eligibility determination notice is AFFIRMED.

Effective Date of this Decision: August 22, 2017

How this Decision Affects Your Eligibility

You and your wife were ineligible for APTC effective March 1, 2017.

You and your wife were eligible for APTC of up to \$433.00 per month 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

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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

Summary

The February 28, 2017 redetermination notice is MODIFIED to reflect you and your spouse were eligible to purchase a qualified health plan at full cost effective March 1, 2017.

The March 7, 2017, eligibility determination notice is AFFIRMED.

You and your wife were ineligible for APTC effective March 1, 2017.

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You and your wife were eligible for APTC of up to \$433.00 per month 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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