



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

Notice of Decision

Decision Date: September 14, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018190

[REDACTED]

Dear [REDACTED],

On July 31, 2017, you and your representative appeared by telephone at a hearing on your appeal of NY State of Health's March 24, 2017 and March 30, 2017 eligibility determination notices.

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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Decision

Decision Date: September 14, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018190



Issue

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

Did NY State of Health (NYSOH) properly determine you and your spouse were not eligible to receive an advance payment of the premium tax credit in April 2017?

Procedural History

On March 23, 2017, NYSOH systematically redetermined the eligibility of you and your spouse.

On March 24, 2017, NYSOH issued an eligibility determination notice stating you and your spouse were newly eligible to purchase a QHP at full cost, effective May 1, 2017. The notice indicated that you and your spouse were not eligible to receive financial assistance, because NYSOH did not receive previously requested documentation necessary to verify your household income within the required timeframe.

On March 29, 2017, NYSOH receive the updated application submitted on behalf of you and your spouse.

On March 30, 2017, NYSOH issued an eligibility determination notice stating you and your spouse were eligible to receive up to \$710.00 per month in APTC, for a limited time, effective May 1, 2017. The notice also indicated you were conditionally eligible to receive cost-sharing reductions if you enrolled in a silver level QHP. The notice directed you to provide documentation confirming your

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household income before June 27, 2017 or you might lose your insurance or receive less help paying for your coverage.

On April 5, 2017, NYSOH issued an enrollment notice confirming you and your spouse were enrolled in a gold-level QHP with \$710.00 in APTC applied, effective May 1, 2017.

On April 21, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the month of April 2017.

On July 31, 2017, you and your representative 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) Several updated applications for financial assistance were submitted on behalf of you and your spouse in December 2016 and January 2017. Each time, NYSOH was unable to verify the income information listed in your applications and you were directed to submit proof of your household income by March 2, 2017 to confirm your eligibility.
- 2) NYSOH determined you and your spouse conditionally eligible to receive APTC pending receipt of income documentation. You and your spouse were enrolled in a QHP with APTC applied, effective January 1, 2017.
- 3) Income documentation submitted in December 2016 and January 2017 was invalidated by NYSOH.
- 4) On March 23, 2017, NYSOH systematically redetermined the eligibility of you and your spouse and found you were not eligible to receive financial assistance, because you had failed to submit sufficient income documentation by the March 2, 2017 deadline.
- 5) The March 24, 2017 eligibility determination notice indicates your new eligibility was effective, May 1, 2017. However, you stated that instead, your receipt of APTC was ended as of March 31, 2017.
- 6) On March 29, 2017, NYSOH received an updated application submitted on behalf of you and your spouse and determined you conditionally eligible to receive up to \$710.00 in APTC. The eligibility

determination notice issued on March 29, 2017 indicated your new eligibility was effective May 1, 2017.

- 7) The enrollment notice issued on March 30, 2017 confirmed you and your spouse were enrolled in a gold-level QHP since March 1, 2017. The notice indicated no APTC was being applied to the monthly premium.
- 8) According to your account, on April 4, 2017 the enrollments of you and your spouse were updated. The enrollment notice issued by NYSOH on April 5, 2017, confirmed you and your spouse were enrolled in a gold-level QHP and indicated \$710.00 of APTC would be applied to the monthly premium on May 1, 2017.
- 9) You appealed the revocation of your APTC for the month of April 2017. Your representative testified that you paid your usual monthly premium amount with APTC applied for the month of April 2017, but the health plan has billed you for the full amount and has placed your claims "on hold" due to the outstanding bill for April 2017.
- 10) According to your account, on April 22, 2017 you and your spouse were determined fully eligible to receive up to \$675.00 in APTC per month and that amount has been applied to your monthly premium since May 1, 2017.
- 11) Your representative testified you are only seeking reinstatement of your APTC for the month of April 2017.
- 12) Your representative testified that she did not need a separate copy of the decision.

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 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 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.*).

Legal Analysis

The issue under review is whether NYSOH properly determined you and your spouse were not eligible to receive APTC in April 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.

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On March 23, 2017, NYSOH systematically redetermined the eligibility of you and your spouse, and found you were not eligible to receive financial assistance because you failed to submit sufficient income documentation by the March 2, 2017 deadline. The March 24, 2017 eligibility determination notice indicates your new eligibility was effective May 1, 2017. The enrollment notice issued the same day confirmed you and your spouse were enrolled in a QHP with no APTC applied, but did not indicate the date your APTC was revoked. Your representative testified you are being billed by your health plan for the full monthly premium for the month of April 2017.

Your account confirms that NYSOH received an updated application submitted on behalf of you and your spouse on March 29, 2017. You and your spouse were determined conditionally eligible to receive up to \$710.00 in APTC. The eligibility determination notice issued on March 29, 2017 indicated your new eligibility was effective May 1, 2017.

Pursuant to the above cited regulations, upon making an eligibility redetermination, NYSOH must notify the applicant. If an increase in the eligibility for APTC occurs, that change will go into effect the first day of the following month, regardless of when during the month that change occurs.

On the other hand, any decrease in eligibility for APTC, if it occurs after the 15th of the month, will become effective as of the first day of the second month following the date of the notice.

You and your spouse were properly found ineligible to receive APTC when your eligibility was redetermined on March 24, 2017, based on your failure to timely submit sufficient income documentation; that decrease should have gone into effect on May 1, 2017, as indicated in the notice.

When you and your spouse were once again found eligible to receive up to \$710.00 in APTC on March 30, 2017, that change should have been implemented as of the first day of the immediately following month, or April 1, 2017. In other words, your eligibility for APTC was restored before the early disqualification had even gone into effect.

Therefore, the March 24, 2017 eligibility determination notice is **AFFIRMED**. Any action on the part of NYSOH that resulted in your receipt of APTC being ended on March 31, 2017 was improper, both because it violated the clear terms of the eligibility determination notice, and substantively because it violated the pertinent regulations.

The March 30, 2017 eligibility determination notice is **MODIFIED** to reflect that your eligibility to receive APTC was effective April 1, 2017.

Decision

The March 24, 2017 eligibility determination notice is **AFFIRMED**.

The March 30, 2017 eligibility determination notice is **MODIFIED** to reflect that your eligibility to receive APTC was effective April 1, 2017.

Effective Date of this Decision: September 14, 2017

How this Decision Affects Your Eligibility

You and your spouse were eligible to receive APTC for the month of April 2017.

Your case is being returned to NYSOH to correct your receipt of APTC for that month.

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 March 24, 2017 eligibility determination notice is AFFIRMED.

The March 30, 2017 eligibility determination notice is MODIFIED to reflect that your eligibility to receive APTC was effective April 1, 2017.

You and your spouse were eligible to receive APTC for the month of April 2017.

Your case is being returned to NYSOH to correct your receipt of APTC for that month.

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 चाहन्छि 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 sre wo, fre 1-855-355-5777. y&btumi ama wo obi a okyerε 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.