



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

Notice of Decision

Decision Date: August 9, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018367

[REDACTED]

Dear [REDACTED]

On August 3, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 20, 2017 eligibility determination and disenrollment notices, and March 22, 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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Decision

Decision Date: August 9, 2017

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 children were no longer eligible for Child Health Plus and properly end their coverage effective March 31, 2017?

Did NYSOH properly end your and your spouse's financial assistance effective May 1, 2017?

Procedural History

On December 16, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive up to \$402.00 per month in advance payments of premium tax credit (APTC) and your children eligible for Child Health Plus, with a monthly premium of \$45.00, effective as of January 1, 2017. The notice specified that the eligibilities were for a limited time. Additional proof of your income was needed for your children by February 13, 2017, and by March 15, 2017 for you and your spouse.

Also on December 16, 2016, NYSOH issued a plan enrollment notice confirming that your children were enrolled in a Child Health Plan, and you and your spouse were enrolled in a qualified health plan, with enrollment start dates of January 1, 2017. The notice stated that additional proof of your income was need for your children by February 13, 2017, and by March 15, 2017 for you and your spouse.

On February 19, 2017, your NYSOH account was systematically updated.

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On February 20, 2017, NYSOH issued an eligibility determination notice stating, in relevant part, that your children were no longer eligible for Child Health Plus because NYSOH could not verify the income listed in your application.

On February 20, 2017, NYSOH issued a disenrollment notice stating that your children's Child Health Plus coverage would end on March 31, 2017.

On March 21, 2017, your NYSOH account was systematically updated.

On March 22, 2017, NYSOH issued an eligibility determination notice stating, in relevant part, that you and your spouse were newly eligible to purchase a qualified health plan at full cost, effective May 1, 2017.

On April 25, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as your children's Child Health Plus coverage was terminated and your and your spouse's financial assistance was discontinued.

On April 29, 2017, NYSOH issued an eligibility determination notice stating that your and your spouse's APTC and children's Child Health Plus coverage would continue for a limited time. You were granted Aid to Continue until a decision was made on your appeal.

On August 3, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, and record was left open until August 4, 2017, to allow you to submit your 2016 federal income tax return to the NYSOH Appeals Unit.

On August 4, 2017, you faxed two pages of documents to NYSOH's Appeals Unit. That fax was made part of the record as "Appellant Exhibit A." The record is now complete and closed.

Findings of Fact

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

- 1) You testified that you were receiving notices from NYSOH electronically. However, you changed your preference to regular mail in April 2017.
- 2) You testified that the email address listed in your NYSOH account is your current email address.
- 3) You testified that you did not receive any emails from NYSOH informing you that notices were posted to your online account.

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- 4) You testified that you brought your daughter to the doctor in April 2017 and were informed that their health insurance coverage was no longer active.
- 5) You testified that you logged into your NYSOH account in April 2017 and discovered that your and your spouse's financial assistance was ending.
- 6) According to your NYSOH account, you expect to file a 2017 federal income tax return with the tax status of married filing jointly, and expect to claim your two children as dependents on that return.
- 7) You testified that you expect your 2017 household income to be similar to your 2016 household income.
- 8) According to your 2016 Form 1040 U.S. Individual Income Tax Return, your adjusted gross income was \$17,576.00 (see Appellant Exhibit A).
- 9) According to your NYSOH account, you reside in [REDACTED], New York.

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

Applicable Law and Regulations

Child Health Plus – Income Verification Process

A household shall attest that the income information obtained from electronic data sources is accurate. Such attestation shall include any other household income information not obtained from an electronic data source that is necessary to determine a child's financial eligibility for a subsidy payment. If the attestation is reasonably compatible with information obtained from available data sources, no further information or documentation is required. If the attestation is not reasonably compatible with information obtained from available data sources, documentation shall be required (NY Public Health Law § 2511(2)(f)(i-ii)).

If the household does not provide the income documentation required within two months of the request, NYSOH shall disenroll the child at the end of the two-month period (NY Public Health Law § 2511(2)(f)(iv)).

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 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)).

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)).

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Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross federal taxable income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)).

Household Composition

For purposes of APTC and CSR, the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your children were no longer eligible for Child Health Plus and properly ended their coverage effective March 31, 2017.

A household is required to attest that to their household income. If the attestation is reasonably compatible with information obtained from available data sources, no further information or documentation is required. If the attestation is not reasonably compatible with information obtained from available data sources, documentation shall be required.

In the eligibility determination issued on December 16, 2016, you were advised that your children’s eligibility for Child Health Plus was only conditional, and that you needed to confirm your household’s income before February 13, 2017.

The record reflects that NYSOH did not receive the requested income documentation before February 13, 2017.

If NYSOH cannot verify a household's attestation, it must provide the individual with notice of the inconsistency and provide a period of two months to resolve the inconsistency. If the household does not provide the income documentation required within two months of the request, NYSOH shall disenroll the child.

However, you testified that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive any electronic alert regarding the eligibility determination notice, which informed you that your children's eligibility was only conditional and that you needed to submit documentation to confirm your household income.

There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation, or that the notice was later sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit documentation of your income in order to confirm your children's eligibility for Child Health Plus.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the February 20, 2017 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's Child Health Plus plan effective April 1, 2017.

The second issue under review is whether NYSOH properly determined that your and your spouse's financial assistance 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 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.

The notices issued on December 16, 2016, advised you that your eligibility for financial assistance was only conditional, and that you needed to confirm your household's income before March 15, 2017.

The record reflects that NYSOH did not receive the requested income documentation before March 15, 2017.

However, you testified that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive any electronic alert regarding the eligibility determination notice, which directed you that your and your spouse's eligibility was only conditional and that you needed to submit documentation to confirm your income.

There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation, or that the notice was later sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit documentation of your income in order to confirm your eligibility for APTC.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the March 22, 2017 eligibility determination stating that you are no longer eligible for APTC because you failed to submit documentation is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your and your spouse's APTC as of May 1, 2017.

When calculating family size for APTC and CSR, a household size consists of the taxpayer, his or her spouse, and any claimed dependents. You testified that you expect to file your 2017 tax return, with the tax status of married filing jointly, and expect to claim two dependents on that return. Therefore, you are in a four-person household.

You testified that you expect your household income in 2017 to be similar to your 2016 household income. The record indicates that your adjusted gross income in 2016 was \$17,576.00. The record contains sufficient testimony and documentation to return your case to NYSOH to recalculate your financial assistance. Your case is RETURNED to NYSOH to recalculate your family's eligibility for financial assistance based on a four-person household, residing in Herkimer County with an expected 2017 household income of \$17,576.00.

Decision

The February 20, 2017 eligibility determination notice is RESCINDED.

The February 20, 2017, disenrollment notice is RESCINDED.

The March 22, 2017, eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to:

- 1) Reinstate your children's Child Health Plus plan, effective April 1, 2017;
- 2) Reinstate your and your spouse's APTC as of May 1, 2017; and
- 3) Recalculate your family's eligibility for financial assistance based on a four-person household, residing in [REDACTED] with an expected 2017 household income of \$17,576.00.

Effective Date of this Decision: August 9, 2017

How this Decision Affects Your Eligibility

Your case is being sent back to NYSOH to reinstate your children's Child Health Plus plan as of April 1, 2017.

Your case is being sent back to NYSOH to reinstate your and your spouse's APTC as of May 1, 2017.

Your case is RETURNED to NYSOH to recalculate your family's eligibility for financial assistance based on the information stated above.

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:

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 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 20, 2017 eligibility determination notice is RESCINDED.

The February 20, 2017, disenrollment notice is RESCINDED.

The March 22, 2017, eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to:

- 1) Reinstate your children's Child Health Plus plan, effective April 1, 2017;
- 2) Reinstate your and your spouse's APTC as of May 1, 2017; and

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).

- 3) Recalculate your family's eligibility for financial assistance based on a four-person household, residing in [REDACTED] with an expected 2017 household income of \$17,576.00.

Your case is being sent back to NYSOH to reinstate your children's Child Health Plus plan as of April 1, 2017.

Your case is being sent back to NYSOH to reinstate your and your spouse's APTC as of May 1, 2017.

Your case is RETURNED to NYSOH to recalculate your family's eligibility for financial assistance based on the information stated above.

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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