



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

Notice of Decision

Decision Date: November 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018482

[REDACTED]

[REDACTED],

On November 7, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 16, 2017 eligibility determination notice and April 25, 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 Date: November 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018482

[REDACTED]

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 and your husband's eligibility for advance payments of the premium tax credit ended effective April 1, 2017?

Did NYSOH properly determine that your and your husband's eligibility for advance payments of the premium tax credit was effective May 1, 2017?

Procedural History

On December 9, 2016, NYSOH issued a notice of eligibility determination stating that you and your husband were conditionally eligible to receive up to \$509.00 in advance payments of the premium tax credit (APTC), effective January 1, 2017. The notice further directed you to provide documentation confirming your income before March 8, 2017.

On December 16, 2016, NYSOH issued a notice confirming your and your husband's enrollment in a gold level qualified health plan with APTC, effective January 1, 2017.

NYSOH did not receive the requested documentation by the deadline of March 8, 2017.

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On March 16, 2017 NYSOH issued an eligibility determination notice stating that you and your husband were newly eligible to purchase a qualified health plan at full cost. The notice stated that you were not eligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective April 1, 2017.

On March 16, 2017 NYSOH issued an enrollment confirmation notice stating that you and your husband were enrolled in a qualified health plan with \$0.00 of APTC applied to your premium.

On April 25, 2017, NYSOH issued an eligibility determination notice stating you and your husband were eligible for APTC up to \$501.00 per month, effective June 1, 2017.

On April 25, 2017, NYSOH issued an enrollment notice confirming your and your husband's enrollment in a gold level qualified health plan with APTC applied to the premium starting May 1, 2017.

On April 28, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the month of April 2017.

Your hearing was scheduled for August 8, 2017, at 3:00 pm. A Hearing Officer from NYSOH's Appeals Unit called you at that time but was unable to reach you. Your case was dismissed as a Failure to Appear and a Notice of Dismissal was issued to you on August 11, 2017.

NYSOH received your request to vacate the August 11, 2017 Notice of Dismissal and your request was granted on September 11, 2017.

On November 7, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit with the aid of Russian Interpreter [REDACTED]. The record was developed during the hearing and closed at the end of the proceeding.

Findings of Fact

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

- 1) You testified, and your account indicates, that you receive all of your notices from NYSOH by regular mail.
- 2) You testified you are not sure if you ever changed the preference of contact in your account.

- 3) You testified that you do not remember receiving any notices stating that your and your husband's eligibility was only conditional and that you needed to provide documentation of your household's income.
- 4) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 5) You testified that you did not know that you needed to submit documentation of your income until you contacted NYSOH regarding your premium increase in March 2017.
- 6) Your NYSOH account indicates that on March 15, 2017 your application was run and you and your spouse were found no longer eligible for APTC as of April 1, 2017.
- 7) You updated the income information in your NYSOH account on April 24, 2017, to \$51,000.00. You were then found eligible for APTC starting May 1, 2017
- 8) You testified that you are seeking reinstatement of your APTC as of April 1, 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 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)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your and your husband's eligibility for APTC ended effective April 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.

In the eligibility determination issued on December 9, 2016, you were advised that your and your husband's eligibility for APTC was only conditional, and that you needed to confirm your household's income before March 8, 2017.

You testified that you do not remember receiving any notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as

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undeliverable. You further testified that you do not remember ever changing this contact preference.

Therefore, NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

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. Any changes in APTC are to be made effective the date following the eligibility redetermination notice.

Accordingly, your eligibility for APTC should have ended as of April 1, 2017, the month following the March 16, 2017 eligibility redetermination notice.

Therefore, the March 16, 2017 eligibility redetermination notice is **AFFIRMED** because NYSOH properly determined your and your husband's eligibility for APTC ended April 1, 2017.

The second issue is whether NYSOH properly determined that your and your husband's eligibility for advance premium tax credits was effective May 1, 2017.

On April 24, 2017, you updated the income information in your NYSOH account. On April 25, 2017, a notice of eligibility redetermination was issued stating that you and your husband were eligible to receive up to \$501.00 in APTC, effective June 1, 2017.

As stated above, any changes in APTC are to be made effective the date following the eligibility redetermination notice.

Since you updated your application on April 24, 2017, any changes in APTC should have been made effective as of May 1, 2017.

Therefore, NYSOH's April 25, 2017 eligibility determination notice is **MODIFIED** to reflect you and your husband were eligible for APTC as of May 1, 2017.

Decision

The March 16, 2017 notice of eligibility determination is **AFFIRMED**.

The April 25, 2017 eligibility determination notice is **MODIFIED** to reflect you and your husband were eligible for APTC as of May 1, 2017.

Effective Date of this Decision: November 10, 2017

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How this Decision Affects Your Eligibility

NYSOH properly found you and your husband not eligible to receive APTC effective April 1, 2017 because you did not provide documentation of your household's income.

Your and your husband's redetermination for APTC should have been effective May 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 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

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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 16, 2017 notice of eligibility determination is AFFIRMED.

The April 25, 2017 eligibility determination notice is MODIFIED to reflect you and your husband were eligible for APTC as of May 1, 2017.

NYSOH properly found you and your husband not eligible to receive APTC effective April 1, 2017 because you did not provide documentation of your household's income.

Your and your husband's redetermination for APTC should have been effective May 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.

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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।

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.

Twí (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.