



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

Notice of Decision

Decision Date: October 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018731

[REDACTED]

Dear [REDACTED],

On September 19, 2017, you appeared, with the aid of [REDACTED] interpreter, by telephone at a hearing on your appeal of NY State of Health's March 18, 2017 eligibility determination and enrollment confirmation 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 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: October 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018731



Issue

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

Did NY State of Health (NYSOH) properly determine that your eligibility for advance payments of the premium tax credit ended effective March 31, 2017?

Procedural History

On December 12, 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 March 11, 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 (QHP) with APTC, effective January 1, 2017.

On March 17, 2017, NYSOH systematically redetermined your eligibility.

On March 18, 2017, NYSOH issued an eligibility determination notice stating you were newly eligible to purchase a QHP at full cost, effective May 1, 2017. The notice indicated that you were not eligible for financial assistance, because NYSOH had not received the income documentation needed to verify the income information listed in your application.

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Also on March 18, 2017, NYSOH issued an enrollment notice confirming your enrollment in a full cost QHP.

On April 19, 2017, NYSOH issued an eligibility determination notice, based on your April 18, 2017 updated application, stating you were again eligible to receive APTC, effective June 1, 2017.

Also on April 19, 2017, NYSOH issued an enrollment notice confirming you were enrolled in a QHP with APTC applied, effective May 1, 2017.

On May 5, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the month of April 2017.

On September 19, 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 testified, and your account confirms, you renewed your coverage for the 2017 coverage year by submitting an updated application online on December 11, 2016.
- 2) You testified you think you were asked for income documentation at that time.
- 3) You testified [REDACTED] was helping you submit income documentation and you think she submitted paystubs, but you do not know specifically what was submitted or when.
- 4) Your NYSOH account confirms that you receive all your notices from NYSOH by regular mail.
- 5) You testified that you do not remember whether you received the December 12, 2016 eligibility determination notice, but that you knew you had to submit income documentation to confirm your eligibility.
- 6) There is no evidence in your account that any notice issued to you by NYSOH has been returned as undeliverable.
- 7) There is no evidence in your account that NYSOH has ever received any income documentation from you.

- 8) On March 17, 2017, NYSOH systematically redetermined your eligibility and found you ineligible for financial assistance, because you failed to submit income documentation necessary to confirm your eligibility to receive APTC.
- 9) The March 18, 2017 eligibility determination notice indicated your new eligibility was effective May 1, 2017.
- 10) The enrollment confirmation notice issued on March 18, 2017 indicated you were enrolled in a full cost QHP, but it did not state when your eligibility for APTC ended.
- 11) You testified your APTC was revoked for the month of April 2017, because you had to pay the full premium amount for that month.
- 12) Your account confirms, you submitted an updated application on April 18, 2017 and you were determined fully eligible to receive APTC, effective June 1, 2017.
- 13) The enrollment confirmation notice issued on April 19, 2017 indicates your APTC would be applied effective May 1, 2017.
- 14) 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

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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 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)).

Legal Analysis

The issue under review is whether NYSOH properly determined 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.

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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 12, 2016, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your income before March 11, 2017.

You testified, and your account confirms, you have elected to receive all your notices from NYSOH by regular mail. You testified that you do not remember whether you received the December 12, 2016 eligibility determination notice. However, there is no evidence in your account that any notice issued to you by NYSOH has been returned as undeliverable. Furthermore, you testified that you were aware you had to submit proof of your income to confirm your eligibility. Therefore, the evidence establishes that NYSOH provided you with adequate notice that income documentation was needed to confirm your eligibility to receive APTC.

Although you testified you provided [REDACTED] with paystubs and you thought she submitted them to NYSOH, there is no evidence in your account that NYSOH has ever received income documentation from you.

Pursuant to the regulations, 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 there is no evidence in your account that you submitted 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. Since the eligibility redetermination notice indicating you were no longer eligible to receive APTC was issued on March 18, 2017, after the fifteenth day of the month, the decrease in your APTC should not have gone into effect until the first day of the second following month; that is, on May 1, 2017.

Accordingly, the March 18, 2017 eligibility determination notice stating you were newly eligible to purchase a QHP at full cost, and ineligible to receive APTC, effective May 1, 2017, is correct and is AFFIRMED.

However, the March 18, 2017 enrollment confirmation notice is MODIFIED to reflect that your APTC was revoked and your enrollment in a full cost QHP was effective no earlier than May 1, 2017.

Accordingly, your case is RETURNED to NYSOH to reinstate your APTC for the month of April 2017.

It is noted that you were subsequently determined eligible for APTC on April 19, 2017 and your APTC was reinstated for May 1, 2017. Therefore, you should not have had any gap in your eligibility for APTC.

Decision

The March 18, 2017 eligibility determination notice is AFFIRMED.

The March 18, 2017 enrollment confirmation notice is MODIFIED to reflect that your APTC was revoked and your enrollment in a full cost QHP was effective no earlier than May 1, 2017.

Your case is RETURNED to NYSOH to reinstate your APTC for the month of April 2017.

Effective Date of this Decision: October 3, 2017

How this Decision Affects Your Eligibility

You should have received APTC for April 2017.

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.

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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
- By mail at:
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- By fax: 1-855-900-5557

Summary

The March 18, 2017 eligibility determination notice is **AFFIRMED**.

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The March 18, 2017 enrollment confirmation notice is MODIFIED to reflect that your APTC was revoked and your enrollment in a full cost QHP was effective no earlier than May 1, 2017.

Your case is RETURNED to NYSOH to reinstate your APTC for the month of April 2017.

You should have received 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 srɛ wo, frɛ 1-855-355-5777. yɛbɛtumi 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 איר געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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