



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

Notice of Decision

Decision Date: October 4, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019397

[REDACTED]

Dear [REDACTED]

On September 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 29, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: October 4, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019397

[REDACTED]

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 (APTC) ended effective May 1, 2017?

Procedural History

On December 14, 2016, NYSOH issued an eligibility determination notice, based on your December 13, 2016 application, stating in part that you were eligible to receive up to \$220.00 in APTC and to receive cost-sharing reductions if you enrolled in a silver-level qualified health plan (QHP) for a limited time, effective January 1, 2017. The notice directed you to provide documentation confirming your household income before March 13, 2017.

Also on December 14, 2016, NYSOH issued a plan enrollment notice confirming in part your selection of a bronze-level QHP with a monthly premium of \$99.50 after your monthly APTC of \$220.00 was applied as of January 1, 2017.

On March 4, 2017, you submitted copies of four current consecutive weekly paystubs, dated February 9, 2017 through March 2, 2017 (see Documents [REDACTED], and [REDACTED]). These documents were invalidated by NYSOH as insufficient on March 13, 2017.

On March 14, 2017, NYSOH issued a notice stating that the documentation you submitted does not confirm the information in your application. The notice

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directed you to provide additional documentation confirming your household income before April 12, 2017.

On March 27, 2017, you submitted a letter from your employer, dated March 22, 2017, stating that your employer changed payroll companies on February 22, 2017(see Document [REDACTED]). This document was invalidated by NYSOH as insufficient on April 3, 2017

On April 4, 2017, NYSOH issued a notice stating that the documentation you submitted does not confirm the information in your application. The notice directed you to provide additional documentation confirming your household income before April 12, 2017.

On April 29, 2017, NYSOH issued an eligibility determination notice, based on an April 28, 2017 system update, stating that you were newly eligible to purchase a QHP at full cost, effective June 1, 2017. The notice stated that you were not eligible to financial assistance because the household income you provided of \$58,304.63 is over the allowable income limit of \$47,520.00.

Also on April 29, 2017, NYSOH issued a plan enrollment notice confirming in part your enrollment in a bronze-level QHP at the full monthly premium amount of \$306.11, effective January 1, 2017.

On May 9, 2017, NYSOH issued an eligibility determination notice, based on your May 8, 2017 updated application, stating that you were eligible to enroll in the Essential Plan for a limited time with a \$20.00 monthly premium, effective June 1, 2017. The notice directed you to provide documentation confirming your income before August 6, 2017.

Also on May 9, 2017, NYSOH issued a plan enrollment notice confirming in part your enrollment in the Essential Plan, effective June 1, 2017.

On May 31, 2017, you spoke to NYSOH's Account Review Unit and appealed that determination insofar as your APTC was terminated for the month of May 2017.

On September 6, 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) According to your NYSOH account, you expect to file your 2017 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 2) The application that was submitted on December 13, 2016, listed annual household income of \$27,800.00 in earnings from your employment. You testified that this was correct.
- 3) On March 4, 2017, you submitted documentation that your average monthly income is \$2,243.25, based paystubs dated February 9, 2017 through March 2, 2017, in the amounts of \$466.00, \$507.00, \$540.00 and \$730.25, respectively (see Documents [REDACTED], [REDACTED], and [REDACTED]). These earnings total approximately \$29,162.25 (Totaled and divided by 4 weeks for an average weekly wage times 52 weeks).
- 4) According to the Notes tab in your NYSOH account, these documents were invalidated as insufficient on March 13, 2017, because two of the paystubs did not include your employer's name and it appeared that two of the paystubs were from a different employer.
- 5) On March 27, 2017, you submitted a letter from your employer, dated March 22, 2017, stating that your employer changed payroll companies on February 22, 2017, and all four paystubs were from the same employer.
- 6) According to your NYSOH account, your March 3, 2017 and March 27, 2017 submissions, were validated by NYSOH on April 28, 2017. On that day, NYSOH redetermined your eligibility based on this proof of income and increased your income from \$27,800.00 to \$58,204.63. As a result, you were found ineligible for financial assistance because your income was "over \$47,520.00."
- 7) On April 29, 2017, NYSOH issued a plan enrollment notice confirming in part your enrollment in a bronze-level QHP at the full monthly premium amount of \$306.11, effective January 1, 2017.
- 8) You updated your account on May 8, 2017, and were found conditionally eligible for the Essential Plan, effective June 1, 2017. You testified this resulted in a gap in financial assistance for the month of May 2017.
- 9) Your application states that you will be taking a student loan interest deduction on your 2017 tax return, in the amount of \$466.00 per month. You testified that this is the amount of your full payment of your

student loan payment and are unsure as to how much of the \$466.00 monthly payment is the interest portion of that payment.

10) According to your NYSOH account, your current application lists your student loan interest as \$1,100.00 for the full tax year.

11) According to your NYSOH account eligibility history tab, you live in [REDACTED], New York.

12) According to your Eligibility History tab in your NYSOH account, you were eligible for APTC from January 1, 2017 through May 31, 2017.

13) You testified that you want your APTC to be applied to May 2017, because the health plan required you to pay the full premium for that month before they would allow you to start the Essential Plan, and never reimbursed you for the lost APTC for that month.

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)).

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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)).

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your eligibility for APTC ended.

Initially, it is noted that you were found eligible to receive up to \$220.00 per month in APTC as of January 1, 2017, based on your December 13, 2016 application. The amount of APTC is not in dispute.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. When NYSOH cannot verify information that is required to make an eligibility determination, it must notify the applicant and allow the applicant time to submit satisfactory documentation.

On December 14, 2016, NYSOH issued an eligibility determination notice, based on the information contained in your December 13, 2016 application, stating that you were conditionally eligible to receive APTC in the amount of \$220.00 per month, effective January 1, 2017. That notice stated you must provide proof of income before March 13, 2016 to confirm your eligibility.

The record reflects that, on March 4, 2017 and March 28, 2017, you submitted proof of income, which was validated by NYSOH on April 28, 2017. Also on April 28, 2017, NYSOH recalculated your household income, effectively doubling it, and redetermined your eligibility based on an increase of your attested income of \$27,800.00 to \$58,204.63.

This increase in income put you at 489.94% of the applicable FPL of \$11,880.00 for a one-person household and resulted in you begin redetermined ineligible for APTC, as of June 1, 2017, as stated in the April 29, 2017 eligibility determination notice and your eligibility history tab.

Also on April 29, 2017, NYSOH issued a plan enrollment notice confirming in part your enrollment in a bronze-level QHP at the full monthly premium amount of \$306.11, effective January 1, 2017.

You credibly testified that since your APTC was removed before June 1, 2017, as stated in the April 29, 2017 plan enrollment notice, your health plan required you to pay the full premium for May 2017 coverage, without your APTC being applied. Based upon the record and your testimony, it is reasonable to find that the plan enrollment notice compounded the income error and resulted in your APTC ending as of May 1, 2017, instead of June 1, 2017.

On May 8, 2017, you were redetermined eligible for and enrolled in the Essential Plan, effective June 1, 2017, but that did not resolve the gap in your application of APTC for the month of May 2017.

Based on the foregoing, it is reasonable to conclude that NYSOH miscalculated your annual income in doubling it, which resulted in you being redetermined ineligible for financial assistance, effective June 1, 2017, such that the April 29, 2017 eligibility determination notice is not supported by the record. However, the record reflects that you were redetermined conditionally eligible for the Essential Plan, effective June 1, 2017, and enrolled in an Essential Plan as of that date, such that the April 29, 2017 eligibility determination notice is rendered MOOT and no further action is required.

In addition, since the April 29, 2017 plan enrollment notice improperly stated that you were no longer eligible for APTC as of January 1, 2017, it is MODIFIED to reflect that your eligibility for APTC ended effective May 31, 2017.

Your case is RETURNED to NYSOH to apply your monthly APTC of \$220.00 to your premium for May 2017, and to notify you accordingly.

Since your conditional eligibility redetermination for the Essential Plan and your enrollment in an Essential Plan both became effective June 1, 2017, those findings and corresponding notices are not disturbed by this Decision.

Lastly, you testified that the student loan interest attested to in your May 8, 2017 application is the amount of your full payment of your student loan payment and that you are unsure as to how much of the \$466.00 monthly payment attested to is the interest portion of that payment. It appears you have since updated your account and the amount of your student loan interest in your application going forward.

At the end of a tax year, a person who elects to take APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year, which may also result in a tax credit or reduction in tax liability if the full amount of APTC to which a person is entitled is not taken throughout the year. Conversely, if a person received more APTC than their maximum entitlement, based on gross income, they might owe the excess as an additional income tax liability.

Decision

The April 29, 2017 eligibility determination notice is rendered MOOT by the May 9, 2017 eligibility determination and plan enrollment notices.

The April 29, 2017 plan enrollment notice is MODIFIED to state that the application of your monthly APTC of \$220.00 ended effective May 31, 2017.

Your case is RETURNED to NYSOH to apply your monthly APTC of \$220.00 to your premium for May 2017, and to notify you accordingly.

This Decision does not affect any subsequent eligibility determination or plan enrollment notices issued by NYSOH.

Effective Date of this Decision: October 4, 2017

How this Decision Affects Your Eligibility

Your monthly APTC should have been applied to your May 2017 monthly premium.

Your case is being sent back to NYSOH to apply your monthly APTC of \$220.00 toward the May 2017 monthly premium. NYSOH will notify you once this has been done.

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 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

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).

Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The April 29, 2017 eligibility determination notice is rendered MOOT by the May 9, 2017 eligibility determination and plan enrollment notices.

The April 29, 2017 plan enrollment notice is MODIFIED to state that the application of your monthly APTC of \$220.00 ended effective May 31, 2017.

Your case is RETURNED to NYSOH to apply your monthly APTC of \$220.00 to your premium for May 2017, and to notify you accordingly.

This Decision does not affect any subsequent eligibility determination or plan enrollment notices issued by NYSOH.

Your monthly APTC should have been applied to your May 2017 monthly premium.

Your case is being sent back to NYSOH to apply your monthly APTC of \$220.00 toward the May 2017 monthly premium. NYSOH will notify you once this has been done.

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 مجانًا.

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বাংলা (Bengali)

এই নথি গুরুত্বপূর্ণ। আপনি যদি এটি বুঝতে সাহায্যের প্রয়োজন হয়, তবে দয়া করে 1-855-355-5777-এ কল করুন।
আমরা আপনাকে নি:শুল্কভাবে আপনার ভাষায় অনুবাদকারী প্রদান করতে 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 नि:शुल्क 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 नि:शुल्क 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&b&tumi ama wo obi a okyer& 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.